DOWNGRADING OF FEDERAL EMPLOYEES

HEARINGS

BEFORE THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 3255, H. R. 3085, and H. R. 5887

DOWNGRADING OF FEDERAL EMPLOYEES

JULY 11 AND 26, 1955

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DOWNGRADING OF FEDERAL EMPLOYEES

MONDAY, JULY 11, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. James C. Davis (chairman) presiding.

Mr. DAVIS. Let the subcommittee come to order, please.

This subcommittee, composed of Congressmen Morrison, Kilgore, Holifield, Cretella, Cederberg, Henderson, and I, as chairman, was appointed as a subcommittee to consider H. R. 3255, H. R. 3085, and H. R. 5887.

H. R. 3255 and H. R. 3085 are similar in both language and substance. The purpose of H. R. 5887 is similar to that of H. R. 3255. H. R. 3255 would add to the Classification Act of 1949 a new savings clause whereby a Government employee who has performed 2 years or more of satisfactory service in a position will not suffer a reduction in salary because of reduction in the grade of his position, so long as he remains in the position. If he leaves the position, any new appointee will not receive the protection of the saving clause, but will come in at the proper grade for the position.

H. R. 3085 provides a similar savings clause except that (1) the period of service must be more than 2 years and (2) an employee whose salary is saved also will be entitled to step increases just as though his position had not been downgraded.

H. R. 5887 likewise will provide a new savings clause but (1) the required period of service is only 1 year or more and (2) if the employee becomes entitled to a salary higher than the saved salary by operation of the Classification Act, such higher salary will replace the saved salary.

H. R. 3255 was introduced by our colleague on this committee, Representative John Lesinski. H. R. 3085 and H. R. 5887 were introduced by Mr. Becker and Mrs. Kelly of New York, respectively.

We hope to hear from the authors of these bills, as well as from representatives of the Civil Service Commission, who will state the position of the administration, and representatives of various employee organizations.

We are pleased to have our colleague, Congressman Lesinski, here to speak on behalf of his bill.

STATEMENT OF HON. JOHN LESINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. LESINSKI. Thank you.

Mr. Chairman and members of the committee, naturally all of us or most of us in life, the biggest part of the American public, are in

the habit of living as our means can provide. In other words, if we are working at a salary that can afford a Ford, we buy a Ford; if we are working at a salary that can afford a Cadillac, we buy a Cadillac. Life is pretty well based on what our annual earnings are and it seems rather peculiar that the Civil Service Commission, in its actions, seems to have no thought or no understanding as to what the individual can possibly endure.

I have received many letters in the past number of years regarding the downgrading of people in the civil service of the Government, which has caused throughout the whole civil service a very unstable, unsatisfied, and discouraged group of personnel working for the Federal Government. They do not know from day to day what their salary is going to be tomorrow. They are extremely concerned that some action be taken to solidify the position they hold today.

That was the reason I introduced H. R. 3255, which is similar to Mr. Becker's bill, H. R. 3085 and, of course, Mrs. Kelly's bill, H. R. 5887, which goes a little further.

Amongst the letters I have received—in order to save the committee's time I am not going to read the letters—I want to mention a few details that I think your committee would be interested in.

We have a man with 35 years in the service, who spent 11 years in the grade and was downgraded two grades at a loss of $856 a year. Another one who had 19 years in the service was downgraded and lost $480 yearly. Another one lost $900, and so forth.

Mr. DAVIS. In those positions, the job itself was downgraded?

Mr. LESINSKI. He was downgraded two grades.

Mr. DAVIS. But was the job itself downgraded?

Mr. LESINSKI. Yes, sir.

Mr. DAVIS. Or was he just placed in a different position?

Mr. LESINSKI. The job was downgraded.

Mr. DAVIS. Do you know if that was done after a study was made and a revision made of the particular job in question?

Mr. LESINSKI. By the Civil Service Commission. The peculiar part of that is that the individuals have a right of appeal to the Civil Service Commission, but many times the individuals are not informed of the pending action of the Civil Service Commission. They are not informed as to how to proceed and, for that reason, they do not appeal and oftentimes do not know about it until it happens, and then it is too late. At other times the respective bosses tell them that nothing is going to come of it; they tell them that they are O. K. Then, all of a sudden, they are hit on the head and that is that.

I have one letter from an individual who served in the Government for many years, who had obligated himself for his home and his family, then was downgraded and now has to work in a gas station in order to make up the difference in salary. You and I know it is not good for a Federal employee, or any one, to be holding down two jobs. That is typical of many letters I have received. I have a letter from a lady who worked in a veterans' hospital. She drove 60 miles a day to the hospital for a number of years and then, being assured of her job, she bought a piece of property close by. Following the purchase of the property, she was downgraded, could not meet her payments, and lost what she had.

That does not reflect a proper morale for Federal employees anywhere.

Mr. CRETELLA. Does not that same problem exist in private industry as well?

Mr. LESINSKI. It does.

Mr. CRETELLA. Traveling men for private industry have to wander from one part of the country to the other and have that same problem; is not that true?

Mr. LESINSKI. It holds to a lesser degree.

Mr. CRETELLA. That is, to a lesser number?

Mr. LESINSKI. That is correct. In private industry, it may happen occasionally but that is very rare. The reason for that in private industry is due to establishing a representative position and a man is requested to fill that position for a certain salary. But I never heard of this happening in private industry, although I assume it may.

Mr. CRETELLA. I am not talking about downgrading in industry. You raised the problem about a woman buying a house. That is the problem I am directing my observation to. In private industry men who are engaged in certain operations must move from one part of the country to the other, and they still have this problem; do they not?

Mr. LESINSKI. Oh, surely; but that is by virtue of the fact that the business is going down, or they move from one part of the country to another. This has no reference to that. This is in the same community while working in the same hospital in the same job and the same grade.

I was rather amused by an article that appeared in Saturday's News that H. R. 3255 and other bills would cause havoc in the civil service. I do not have copies with me, but they mentioned three points. They mentioned that the bill would provide for a fast-talking employee to make his supervisor or employer raise him up a grade or two. Then it mentioned the fact that the supervisor or man in charge of the group of Federal employees, if he wants to play favorite with a certain individual, could raise him a couple of grades. The third thing was the charge that people moving from one agency to another would be inclined to be retained in the higher grade.

If the Civil Service Commission did its job as it is supposed to, as Congress has authorized it to do, that is, make a postaudit of classifications in every Department and agency in the Federal Government, there would be no need of the so-called worry on the part of the Civil Service Commission. The Civil Service Commission's job is to set job specifications and if job specifications were set there would be no need for this legislation, because of the fact the job specifications would be there; the employer would employ the individual on his merits for that job and the pay scale.

Now this legislation, I believe, is very important because it would do two things. First, it would force the Civil Service Commission to do its job, to act as it is supposed to, and that would result in the protection of the Congress and the protection of the civil-service laws. Second, the employee working for the Federal Government would be assured he would be maintained in the job he has been appointed to and at the salary level that is provided.

That is the reason I am very much interested in the legislation and in some action to bring about a proper relationship between employees and employer.

I have no prepared statement. If the chairman will allow, I would like to present these cases for the record as to the people I referred to.

Mr. DAVIS. Without objection, that may be admitted.

(The matter above referred to is as follows:)

Specific cases to which H. R. 3255 would apply, compiled by Congressman John Lesinski

Downgrade	Annual money loss	Service in grade	Overall service	Downgrade	Annual money loss	Service in grade	Overall service
		Years	*Years*			*Years*	*Years*
2	$856	11	35	3			14
2	480		19	2		3	12
1	900	7		1	385	11	14
1	440		19	1	400	5	
1	690		30	3	505		13
1	400		21	2	545	4	15
2	480	3	15	1			12
1			13	X [1]			
2	45			X [1]			
1			17	X [1]	795		
2	425	10	35	X [1]			25
1			16	X [1]			22
1	260	4	15	X [1]			

Downgrade	Numher johs involved	Serviee in grade
1 to 2	12 people	2 to 14.
1 to 2	13 positions to he downgraded in the Terminal Section of the Department of the Army Communieation Center.	
X [1]	6 jobs in Casualty Braneh of Department of the Army	
X [1]	4 jobs in Personnel Aetion Braneh of the Adjutant General's Offiee, Department of the Army.	
1 to 4	Very many in General Aecounting Offiee	
1 to 3	Several in Claims Division of the General Accounting Office	

[1] X refers to being downgraded without speeifying how many grades.

Mr. DAVIS. Are there any questions?

Mr. CRETELLA. I was interested in the question Judge Davis asked you with reference to the letters you had received. You did not answer the question specifically. What was the cause for the downgrading; was it because of the elimination of the job?

Mr. LESINSKI. No.

Mr. CRETELLA. Or because that particular individual was improperly graded in the first instance?

Mr. LESINSKI. Let us put it this way: For that agency, the individual's work was graded to a certain position. In turn, the Civil Service Commission came back after 5 or 6 years and claimed that position was classified too high and downgraded the position 2 grades. Now it was the action of the Civil Service Commission. I stated that following that the individual has the right of petition but, because of the information he got from his superiors, he did not do it, because they claimed there was no need for it. Then he woke up to find the next day he was downgraded and that was the reason he had to find another job.

Many people are getting discouraged with the Federal service and are quitting for that very reason, because they never know from day to day where they stand. In other words, it is the action of the Civil Service Commission.

Mr. DAVIS. Thank you very much, Mr. Lesinski.

Mr. LESINSKI. Thank you for the opportunity to testify before you.

Mr. DAVIS. The next witness is the Honorable Frank J. Becker, who is the author of H. R. 3085.

We are glad to have you with us, Mr. Becker.

STATEMENT OF HON. FRANK J. BECKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BECKER. Mr. Chairman and gentlemen of the committee, I certainly appreciate your kindness in hearing me this morning and also your holding hearings on these bills; because, while the legislation may not be of the greatest magnitude and earth shaking in its effects, the individuals who come under this downgrading procedure are invariably people in the lower salary grades; therefore when the salary is reduced and the grade is reduced, naturally it creates very great hardship.

H. R. 3255 introduced by Congressman Lesinski is very similar to the bill introduced by me (H. R. 3085) and was patterned after H. R. 9133 introduced by me in the 83d Congress. I wish to point out to this committee that both H. R. 3255 and H. R. 3085 were not written until after a conference held in the office of the Civil Service Commission between representatives of the National Customs Service Association and representatives of the Commission, at which time the persons attending the conference seemed impressed with the necessity of salary saving legislation of this nature, but felt that the 1-year period in H. R. 9133 should be extended to something like a 2-year period, which would appear to be a more reasonable period of time.

When an employee is hired by the Government and appointed to a position at a specific rate of pay, this transaction should be no different than that of an employee taking a job in private industry. The agency's offer of a position at a certain grade and salary and the employee's action in accepting it would in private industry be regarded as an employment contract. This situation does not hold good in Government employment, however. A representative of the Civil Service Commission can walk into an agency, examine the duties of any employee and recommend that this employee's position be downgraded. If this employee is not protected by the two "savings" clauses now in the law, he will suffer a loss in salary through no fault of his own. This bill will simply protect the employee from such unfair and unethical treatment.

I do not regard the objections raised by the Civil Service Commission as being made in good faith. They speak about a plan which is simply being "considered." The language is clothed in glittering generalities. It does not say who will be protected or how he will be protected.

The thing that impresses me very much about actions of the Civil Service Commission is the very slow pace at which they proceed. Although the law requires that standards be written for all positions in the Federal service, the Commission has failed to write and publish standards for customs clerks, although it does not hesitate to downgrade such clerks when it has not prepared and published standards to guide its classifying officers. It must depend upon other standards which do not cover similar work and on the judgment of persons inexperienced in customs matters. Another matter that has been brought to my attention recently in connection with the slow pace at which the Civil Service Commission operates has to do with the preparation of standards for customs enforcement officers. As far back as 1950 the Commission scheduled the preparation of standards for this group of employees. We are now in the middle of the year

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1955 and the new standards have not been published, with the result that employees who should have been advanced in grade many years ago are occupying grades lower than those which both the Civil Service Commission and the Treasury Department think should apply.

I do not believe that this bill will cure all the inequities existing in the present civil-service setup. However, I feel that it is a protection to the families of civil-service employees against drastic cuts in their income which are not due to any fault on the part of the employee, but which are occasioned by errors made by classifying officers.

I wish to state at this time that I favor the principle of both H. R. 3085 and H. R. 3255. The provisions of H. R. 3085 are more liberal in that they protect not only the salary of the employee involved in a downgrading action, but also the step increases that would accrue to this employee.

Beyond this I would like to call your attention to the fact that for almost 3 years I have been interested in this problem, both from the standpoint of the employee and from the view of the Civil Service Commission. When I introduced H. R. 9133 last year I had been in conferences with the collector of the port of New York, the members of the Customs Service Association, and the Civil Service Commission. It was not until around the end of July last year that I had a meeting in this room with the chairman of your full committee and with the chairman of the Civil Service Commission. At that time it was well recognized there was great inequity in this matter of downgrading after the people had been in their jobs a number of years, and their salaries and their livelihood and their families were greatly affected. At that time the Chairman of the Civil Service Commission, Mr. Young, agreed they would hold up the downgrading for a period of time and see whether or not it could not be worked out by a matter of attrition, that is, where jobs were being eliminated, or people were retiring or dying, these people subject to downgrading could be put into those classifications. Much to my surprise, in November or December, this downgrading became effective.

There are some places where it is being worked out, but generally throughout the country too many people are being adversely affected. As my colleague, Mr. Lesinski, stated before, all people when they are put in a job and are classified in the Government service have the right to feel reasonably sure that it is a job that they are going to hold and the grade they are going to keep, at least in the period of time that the Civil Service Commission can reasonably make their survey.

But when they are in that job and receiving the salaries and the increments that go along with them for a period of 2, 3, 4, or 5 years, and suddenly they find themselves downgraded and their income reduced, as well as the limitations on the increment in the low grades, I think it is only fair in view of the fact that 90 percent or more of the people affected are in the low-income groups, this committee and the Congress should rectify this situation and hold the Civil Service Commission to the provisions of the bill introduced, to a 2-year period in downgrading so that the people during that time can adjust themselves to any change that may come about.

Mr. Chairman, I sincerely hope one of these bills, not necessarily mine, will be brought out, and we will get action at this session.

Mr. CRETELLA. The language used in your bill is for a period of more than 2 years and Mr. Lesinski's bill provides for a period of 2 years.

What is the reason for the difference? Do you have any specific reason?

Mr. BECKER. The specific reason for changing that is this, that more than 2 years would make it beyond the 2-year period and not merely on the point of 2 years to give the Civil Service Commission opportunity to get their organization and their audit bureau set up so that they could come in later on and say just how soon they can make their audits and catch up with their audits. They believed, I think, from our discussions last year, that if we gave them 2 years or more that would be fairly reasonable, but not under 2 years.

Mr. HENDERSON. The gentleman has made a very fine statement on behalf of his legislation. I would like to ask two specific questions.

First, you said something about two safeguards. Are those 2 safeguards presently in the law, or are the 2 contemplated by your legislation?

Mr. BECKER. They are already in the law.

Mr. HENDERSON. What are they?

Mr. BECKER. I would rather that Mr. Beiter give you that. He will testify later as to that.

Mr. HENDERSON. I have another question. Most of your testimony was directed to the customs service.

Mr. BECKER. That is right.

Mr. HENDERSON. What is the specific situation with regard to downgrading in the customs service? Can you tell us?

Mr. BECKER. It is the same that applies to all throughout the country. My particular legislation came about through the customs service, where I have direct contact with the men and the organization in and around New York—all the employees. I have had so many of these men come to me that were being downgraded. They were put into a specific grade, a grade 3, 4, 5, or 7, whatever it might be, and they were on those jobs for a period of years. They were given a specific duty to perform at the grade called for by the head of the agency, who would be the collector. Whether it was baggage inspection at the airport, or on ships, or no matter what it might be, they were put in that classification. They performed the duty, but then several years later, 3, 4, or 5, the Civil Service auditors or examiners came in and said, "This man is not in the proper classification, and he is therefore to be downgraded."

Then it was agreed—and I think that I am correct in this—that if he was dropped one grade he would remain in the highest bracket of pay in that grade rather than going to the bottom of the pay sacle, but then he would have to remain there until he would be upgraded to get to the next bracket and be subject to the increment in the next grade.

Now, most of us in America have succeeded on the installment plan. We started buying things for our families because we were anticipating the increments we were going to get from year to year. Our existence is dependent upon that. Now, all of a sudden we downgrade these people and what do they have? Their whole family life and everything that they have counted on has been seriously affected. I think it is wrong.

Mr. HENDERSON. What is the extent of downgrading in the customs service?

Mr. BECKER. From a monetary standpoint?

Mr. HENDERSON. From the point of the number of employees affected.

Mr. BECKER. 160 in the entire customs service.

Mr. DAVIS. In your district, or nationwide?

Mr. BECKER. Throughout.

I might say for the collector in New York, he has been doing everything that he possibly could to successfully work out the ill effects of this downgrading, but that does not apply to Houston, or all parts of the country. New York is a very large port with a large number of employees and he has been able to rectify some of the injustices, but not generally throughout the service.

Mr. DAVIS. Do you know how many have been downgraded in your district?

Mr. BEITER. There were 160 originally scheduled and then through the cooperation of the collector and the Congressman, they reallocated certain positions and the final figure, I believe, was 60 that are still in question.

Mr. DAVIS. In the New York area?

Mr. BEITER. That is only in the port of New York.

Mr. DAVIS. How many employees are there in the port of New York?

Mr. BEITER. About 2,500.

Mr. DAVIS. Thank you very much, Mr. Becker.

Mr. BECKER. Thank you, Mr. Chairman, very much, and I hope you will consider the legislation favorably at this session.

Mr. DAVIS. We will now have the statement of our colleague, Mrs. Kelly from New York, who introduced H. R. 5887.

STATEMENT OF REPRESENTATIVE EDNA F. KELLY OF NEW YORK

Mrs. KELLY. Mr. Chairman, as the author of one of the bills under consideration by the committee today, I appreciate this early hearing on legislation designed to eliminate an inequity which I have found to be destructive to the morale of our Federal career employees. So many of my constituents have been the victims of this inequity that I have been prompted to introduce H. R. 5887 in an effort to protect employees from loss in pay so long as they remain in the job they held at the time the grade of the position was reduced.

I have been impressed with the number of letters I have received from my constituents on this subject. In many cases, they have held a certain grade for 4 or 5 years, even longer. A classification survey occurs and a decision is reached that their duties no longer warrant the grade they are holding. As a result, the employee's position is allocated to a lower grade and he suffers monetary losses ranging from $100 to $500 a year.

Very recently, Congress approved a much-needed salary increase for Federal classified workers. In those instances where jobs have been downgraded in the past several months, the effect of the salary increase is nullified in whole or in part by the loss of pay resulting from the reduction in grade.

Upon inquiring the reason for the downgrading of his position, the employee is often informed that his agency improperly placed the position in the higher grade. Assuming this contention is accurate,

it is difficult to understand how the failure of the agency to properly classify his position should be borne by him. If the agency has failed to apply the classification standards developed in the Classification Act of 1949, as amended, the employee should not be made to suffer a monetary loss.

Safeguards have been incorporated into H. R. 5887 which guarantees that the position will be given the proper grade in the future. The incumbent is entitled to retain the pay rate for the grade from which he was reduced only so long as he continues to perform the same duties or he is entitled to a higher salary under other provisions of the Classification Act. In addition, the downgraded employee must have held the higher grade for at least 1 year prior to the time he is reduced in grade. Any new employee assuming the duties previously performed by the downgraded worker would, of course, receive the grade appropriate to the job.

It is my understanding that many of the grade reductions have occurred where the agency has reorganized its functions. In many cases, such reorganization may be deemed highly desirable by the agency head. However, I am convinced that the adverse results of the realinement should not be felt by the employee, who has no means of controlling the policies of the installation.

Although it is true that an employee whose job is reduced in grade has a right of appeal under the Classification Act to the Civil Service Commission, the regional offices and the Board of Appeals and Review in Washington are not able to decide such appeals on the basis of equity. They must review the duties performed and the classification standards for the job and base their determination solely on the value of the work done in accordance with the law.

Clearly, then, steps should be taken to guarantee an employee with the requisite service that he will continue to receive at least the salary he was entitled to prior to the reduction in grade. H. R. 5887 is intended to accomplish this objective.

I am hopeful that the committee will report favorably on H. R. 5887. This type of legislation is essential if the Federal Government is to maintain its obligation as a fair employer to its employees.

The Chairman. Our colleagues, Mr. Wilson of California, Mr. Dorn of New York, and Mr. Buckley of New York, are unable to be present this morning and have submitted statements which will be included in the record without objection. We also have a statement for the record from Mr. E. W. McCabe, chairman, National Association of Internal Revenue Employees.

(The statements follow:)

Statement of Hon. Bob Wilson (Republican, California) in Regard to H. R. 3255 and Similar Measures

Mr. Chairman, when this committee, in its wisdom, wrote the Classification Act of 1949, it took a large step forward in the removal of historical discrepancies in the field of classification. The delegation to the Civil Service Commission of authority to audit positions throughout the executive branch of the Government and to pass upon the propriety of such classifications was necessary and has served to bring uniformity of classification to like positions throughout the Federal service. This process is of a continuing nature.

As desirable as uniformity may be, it is nonetheless a fact that in nongovernmental service, there are wide variations in pay levels for comparable positions. As a result, employment officers, faced with the necessity of producing a given quantity of work, have resorted to overstating job requirements to enhance the grade level of a given position.

In other instances, administrative officers have projected job levels which have not, over a period of years, met the anticipated levels. In numerous other cases, there have been capricious and arbitrary assignments of classifications higher than the job requirements indicated.

As a result, post audits are continuously downgrading positions. The unfortunate result of this situation is that individuals filling these downgraded positions sustain an unjust reduction in pay. The great bulk of individuals filling downgraded positions did not contribute to the overestimation which originally resulted in their position being graded too high. These people have taken these positions in good faith. Many of them have transferred and otherwise changed their economic or social positions, and are the unfortunate victims of factors far beyond their control.

Almost daily, I receive letters from constituents who are the victims of such downgrading. I sometimes feel the downgrading action itself has been capricious and arbitrary. My correspondence with such constituents indicates that these people suffer dire economic consequences as a result. Reduction in grade, and consequent reduction in pay, with little or no notice, is unfair to the individuals involved, as well as to their families.

I, therefore, urge that legislation be reported out of this committee providing that (*a*) the individual involved shall continue to draw predowngrading pay so long as he continues to fill essentially the same position which has been downgraded; (*b*) he shall continue to be eligible for ingrade pay raises of the pay level he held prior to the downgrading action; and, (*c*) continuation of such pay shall be mandatory on the part of the agency involved.

Your cooperation in permitting me to make this statement, and your favorable consideration of its contents are appreciated.

National Association of Internal Revenue Employees,
Nashville, Tenn.

Brief Before the United States House of Representative Post Office and Civil Service Committee on Salary Savings Bills

Mr. Chairman, I am Edward W. McCabe, Nashville, Tenn., chairman of the committee on legislation for the National Association of Internal Revenue Employees.

I am an employee of the Internal Revenue Service and am employed in the district director's office, Nashville, Tenn.

Our association has between 21,000 and 22,000 members, all employees of the Internal Revenue Service.

I wish to testify in behalf of the several bills, which your committee is considering, all of which have the same purpose—saving the salary of the classified employee whose grade is reduced as result of classification action. These bills are H. R. 3085, H. R. 3255, and H. R. 5887. We favor H. R. 5887, which provides that the downgraded incumbent of the position will not be reduced in salary if he held the position at least 1 year prior to the effective date of the change. This argument is more tenable to us because of the fact that we in the Internal Revenue Service have had first a reorganization, then a reorganization of the reorganization within the last 3 years.

Prior to the passage of the Reorganization Act in March 1952 there were several independent agencies of the Internal Revenue Service in the field service, such as collector of internal revenue, internal revenue agent in charge, special agent in charge, etc. These were combined under one head, known as the district director. Employees of these agencies generally had a "canned" job description—that is one prepared in Washington and sent to the field. These position descriptions were usually too general in nature and not specific.

Accordingly with the advent of the reorganization and then with the inauguration of President Eisenhower, the reorganization of the reorganization, many employees were transferred, reassigned, delegated different duties, etc. So much so that with a very few isolated exceptions, many employees were considered to be performing different positions from the ones they held on October 30, 1949, and not eligible for the salary savings' provisions of the Classification Act of 1949.

Further the Herculean task of each employee preparing job descriptions was begun in early 1953. It took 2 years to complete this project. During the preparation of job descriptions, few desk audits were made by the Civil Service Commission. Accordingly now when the Commission downgrades a position, there

are not too many incumbents who are considered to have held the same position for 2 years or more. This is one reason why we favor H. R. 5887, introduced by Representative Kelly of New York.

Many employees of our Service have already suffered the pangs of being downgraded and the resulting reduction in salary. Had we have had H. R. 5887 in effect, they would today be enjoying their same salary.

I implore you gentlement to favorable consider H. R. 5887 and so report. The welfare of many employees is in your hands. Our employees entered into a contractual relation at the time of their employment. They received a designated salary, agreeable to both employer and themselves. A position audit by the Civil Service Commission results in a downgrade. The faith of our employees may be shattered unless we can allow them to retain the same salary. Their standard of living has been geared to that salary. The integrity of our Government demands that it not break faith with its employees. Gentlemen remove the present iniquity by passing H. R. 5887.

We favor the enactment of a law rather than to allow the Civil Service Commission to administratively handle this problem.

The law would be a mandate and afford no opportunity for administrative changes. Further, the proposed civil-service plan leaves too much to the discretion of the executive head, who may not see fit to transfer an employee who is being downgraded to another position. Then, too, there is the possibility the incumbent may be best fitted for his present position or couldn't be transferred because of the size of their organizational segment.

We have valiant and courageous employees, dedicated to their positions and their service.

We are proud to work for the United States Government, the greatest Government in the world. We have faith in you, our Representatives, and know that you will favorably report a bill which will enhance our welfare and sustain our salaries.

I am grateful for the opportunity to present this brief.

Respectfully submitted.

E. W. McCabe,
Past President and Chairman,
Committee on Legislation.

STATEMENT OF CONGRESSMAN FRANK DORN TO THE HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE, JULY 18, 1955

I am very much interested in H. R. 3085, introduced by Congressman Becker; H. R. 3255, introduced by Congressman Lesinski; and H. R. 5887, introduced by Mrs. Kelly. I have received many letters from constituents complaining of the arbitrary action of the Civil Service Commission in downgrading various civil-service positions both in the customs service and in other agencies through no fault on the part of the employee. I feel that this is a grave injustice and I strongly recommend that legislation be adopted to protect employees against arbitrary action of this kind, since it deprives an employee of a part of his salary even though he has done nothing to deserve this pay cut. It is my opinion that if anybody should be penalized because the position was not assigned to the proper grade, it should be the person who made the decision assigning it to the wrong grade. It certainly should not be the employee who accepted the position at the salary offered without knowledge of the civil-service technicalities.

In private industry, when an employer offers an employee a position at a certain salary and the employee accepts at that salary, we have an employment contract. This same situation should apply in the civil service since everybody regards the United States Government as a sort of model employer. When I first heard that the Civil Service Commission had this arbitrary power over the livelihood and standard of living of so many persons I was greatly surprised. It seems to me that the least we can do is to pass a law of this nature quickly in order to prevent a recurrence of the horrible situation with its resultant loss of morale which occurred in the United States customs service at the port of New York which incidentally is one of our great revenue-producing agencies.

I understand that the Civil Service Commission opposed this necessary protective legislation. Frankly I cannot understand the thinking of the Civil Service Commission on this subject. It is my thought that they should welcome any legislation of this nature that will protect the morale of Federal employees.

The thought has occurred to me that the current thinking of the Civil Service Commission may be due to the fact that it is in the position of prosecutor, judge,

and jury in the matter of the position classification of Federal employees. I would strongly recommend that the committee look into the question of setting up an individual board to which an employee can appeal in case his position is downgraded. I do not think the present law affords the employee an even break since his appeal must go to the same agency which recommended his downgrading and pay cut.

In conclusion I wish to state that I am in favor of any one of the bills that the committee sees fit to report out. However, I would strongly urge the committee to act promptly in this matter in order to get this legislation passed before adjournment.

STATEMENT OF CONGRESSMAN CHARLES A. BUCKLEY IN SUPPORT OF H. R. 3085, 3255, AND 5887

Mr. Chairman, my attention has been directed by many of my constituents to a situation in the Federal Civil Service that is in great need of correction. I am referring to the situation which the three bills which are now before this subcommittee seek to remedy.

Under present rules and regulations, an examiner or classifier from the Civil Service Commission can invade any Government agency and report that the job of any employee was fixed at too high a grade and should be downgraded by the agency. Under existing law, unless the employee is covered by the two salary-saving provisions in the Classification Act of 1949 he will be reduced in grade and his salary will be cut.

The inequity of this situation is apparent when we realize that this loss in grade and position is not due to any fault—or carelessness or lack of industry—on the part of the downgraded employee. It is due to the fault of someone else, either the classifying officer in the agency in which the employee works or the civil-service classifier who makes the so-called audit or inspection of the position.

In private industry when an employer offers a position at a certain salary to an employee and that employee accepts the position, we have an employment contract and the employee's pay is protected. Under the Classification Act of 1949, the Civil Service Commission (a third party) can step in and say to the employee: "Since your agency made a mistake in classifying your position, you will have to pay for its mistake by taking a cut in salary."

According to newspaper reports, the Civil Service Commission, in an attempt to block necessary and worthwhile legislation of this kind, is offering a new set of regulations which are said to protect employees. If the Commission had the power to protect employees at their existing rates of salary, I cannot understand why it has waited until these hearings to suddenly discover that power. These regulations will not offer positive protection to the employees, since they are not mandatory and since the question of whether an employee can or cannot be protected is dependent upon external conditions in his agency, over which neither the employee nor the Civil Service Commission has any control.

I strongly urge this committee to report one of the salary-saving bills out immediately in order to give the civil-service employee at least the same measure of salary security as is enjoyed by the average employee in private industry.

It is my further understanding that this necessary corrective legislation will restore to Federal employees the same security that they enjoyed up to 1949 under Public Law 523 (71st Cong.), which contained similar salary-saving provisions.

Mr. DAVIS. The next witness is Mr. John W. Macy, Jr., Executive Director of the Civil Service Commission, accompanied by Mr. Frank J. Barley, Director, Bureau of Inspection and Classification, Mr. O. Glen Spahl, Director, Bureau of Programs and Standards, and Mr. Seymour S. Berlin, Chief, Program Planning Division.

STATEMENT OF MR. JOHN W. MACY, JR., EXECUTIVE DIRECTOR, CIVIL SERVICE COMMISSION, ACCOMPANIED BY MR. FRANK J. BARLEY, DIRECTOR, BUREAU OF INSPECTIONS AND CLASSIFICATION AUDITS; MR. O. GLENN STAHL, DIRECTOR, BUREAU OF PROGRAMS AND STANDARDS, AND MR. SEYMOUR S. BERLIN, CHIEF, PROGRAM PLANNING DIVISION

Mr. MACY. Chairman Young of the Civil Service Commission regrets that he is unable to present testimony for the Commission, and I will endeavor to represent the Commission's position on these three bills that you have for consideration before your committee.

With your consent, sir, I would like to read a short statement and add some supplementary remarks, if I may.

Mr. Chairman, I am glad to have this opportunity to give you and the members of your committee the views of the Civil Service Commission on proposed legislation to permit Federal employees to retain their salary when their positions are downgraded. Your committee has under consideration three bills, H. R. 3085, 3255, and 5887, which are designed to provide this protection.

The Civil Service Commission has made an intensive study of the problems of adjusting pay of employees whose positions are downgraded. We are very much aware of the questions of equity and the difficulty of personal readjustment caused by loss of pay when grades are reduced. On the basis of our study we believe we can take care of this problem within the normal administrative authority granted to the Commission under the Classification Act. The Commission is now taking appropriate administrative action under that authority to reduce the hardships to employees under such circumstances. The Commission has concluded that this approach will provide a better solution to the problem than any legislation so far proposed.

We know that the impetus for salary retention legislation came from the reduction in grade of certain positions in the customs service in New York. These reductions resulted from a postaudit conducted by the Commission. The Commission has been informed that, through the efforts of the customs service, reassignments and changes in duties have been made so that no employees will lose money as the result of this audit. This situation which aroused sentiment in favor of these bills has been satisfactorily resolved under present law and regulations.

Thus, the most immediate and pressing need has been taken care of. However, our study indicates that problems of this kind can be expected to occur from time to time as it is found necessary to change employees to lower grades. While the exact nature of such future cases cannot be anticipated, some might arise which may produce unintentional inequities and hardships. For this reason the Commission has decided to take administrative action which is designed to assure satisfactory adjustment of pay in any future downgrading situation.

The plan which the Commission will soon place in effect, by issuance of regulations, will permit departments to provide a temporary period of salary retention for an employee who is downgraded. This will allow ample time for possible reassignments. If satisfactory changes cannot be made, it will allow a period for the employees' personal

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readjustment. Our approach would permit temporary salary retention, not only for the employee who is changed to lower grade due to the reallocation of his job, but also for any other employee who is reduced in grade, through no fault of his own, with the exception of the employee whose demotion is due to reduction in force. The length of the salary retention period will be geared to the length of the employee's service in the higher grade. In this way the impact of salary reductions will be minimized and longer service at the higher grade will be recognized. We believe that this approach will provide an equitable means of taking care of necessary downgradings.

I would like to interpolate at this point to indicate that the regulations, as proposed, will provide for a minimum period of 26 weeks for the salary retention during which time the administrative authorities will endeavor through their administrative action to reassign, or to alter the position so that there will be no loss of salary.

Over and above 26 weeks will be provided on the basis of 8 additional weeks per year over 3 years of service so that in the event the individual has 5 years' service it would be 26 plus 16 weeks of service at the retained salary before the downgrading would become effective.

In contrast to the administration plan, the proposed legislation would cause unfair differences in the treatment of employees.

1. These bills would provide salary retention for employees whose jobs are downgraded without change in duties, but not for other equally blameless employees who are changed to lower grades under other circumstances. This would result in differences in treatment among employees which would be difficult to explain or defend.

Mr. Davis. What are the circumstances that you have reference to, Mr. Macy?

Mr. Macy. For example, you might have a situation where an individual was downgraded as the result of changes in duties, reassignments, which was in the interest of the agency that would not be covered by these proposals, such as in the case of a reorganization where frequently as a result of a change in the organizational structure it is necessary for jobs to be changed and in some instances downgrading results.

2. Two of the bills make employees who have been downgraded eligible for steps increases in the higher grades. Saving the existing rate alone creates a lasting misalinement between the pay of the employee who is downgraded and that of others doing comparable work. A requirement that the employee be advanced through the pay steps of the higher grade, including the longevity steps, means that the pay misalinement must become steadily worse.

3. The proposed legislation would not permit salary retention where changes to lower grade are accompanied by a material change in duties. The difficulty of determining whether there actually has been a change in duties introduces a serious source of inequity. Reliance has to be placed on the written record in making the determination although in some cases the record may show a change where there has, in fact, been none.

To the difficulty of telling whether there has been a change in duties we must add the difficulty of telling what change is to be considered material or significant. Are changes in level of difficulty alone to be considered material, and if so, only those changes which would make a full grade level difference in the position? How about changes in line

of work? How about changes from one set of duties to another in the same line of work and at the same level of difficulty? There are differences of degree in all these possible changes which make consistent decisions difficult.

4. Further inequities would result from the requirement proposed in the bill that an employee must occupy the same job for a period of 1 year or 2 years before the date of the down-grading in order to be eligible for salary retention. The employee with long service in a high grade who is changed to the position which becomes subject to regrading 10 months before the regrading action could not have his pay saved. A possibly less deserving employee who has 2 or more years of service in the same job must have his pay saved.

5. The mandatory character of the bills affords agencies no discretion to avoid what they may recognize as glaring inequities in pay alinement. In addition, by giving the employee a statutory right to the rate of a higher grade, the proposed legislation would open the door to time-consuming litigation over questions of management judgment.

The Commission believes that the salary retention plan which it is adopting will avoid many of these problems. Since the plan will provide for temporary pay saving for a period based upon the employee's length of service in the higher grade, it will not create lasting pay misalinement among employees doing comparable work. Because it will apply to a wider range of downgrading actions, there will be markedly fewer questionable differences in treatment among employees whose grades are reduced. It will recognize service by varying the period of salary retention, and as a result will avoid an arbitrary qualifying period such as the 1- or 2-year period in the same position which would be required by these bills.

Mr. Chairman, I would appreciate an opportunity to review, if I may, the program of the executive branch with respect to the administration of the Classification Act of 1949.

We assume in the administration of the Classification Act that we are endeavoring to extend and administer a statute of Congress which calls for equal pay for equal work, and that in order to provide for adherence to that standard it is necessary to do a number of things.

The statute prescribes the Commission shall develop standards which will form the basis for action by the agencies in classifying jobs within their own organizations. The Commission has pursued a standards project over a period of a number of years, and within the resources available to the Commission there has been an attempt to develop standards for the higher population job series in the Federal Government. It must be recognized that there are many thousands of occupations which, under the Classification Act, must be cared for in that fashion.

Another action of the Commission is that of auditing the actual administration of the Classification Act as it is performed by the agencies. The Commission has been conducting this audit program for the years since 1949 on an increasingly accelerated basis so that a larger number of agencies are covered each year. We have been on an extended cycle in the past, and we have endeavored to shorten that cycle from roughly 8 years to 4 years and we hope within the early future to reduce it to 2 years.

We have been able to do this by improved techniques of audit; by eliminating paperwork wherever possible in the process of our audit operations.

It should be pointed out that during the 5-year period from 1950 to 1955 there have been a number of actions by the Commission as the result of audits producing both downgradings and upgradings. Roughly, one-third of the actions taken by the Commission have resulted in upgrading. As I recall the figures, there have been approximately 16,000 actions; 11,000 downgradings and 5,000 upgradings over a period of 5 years.

Mr. CRETELLA. Where there has been an upgrading, has there been an adjustment of salaries on a retroactive aspect?

Mr. MACY. Where there is an upgrading, no; it is on a current basis that the job is upgraded.

I should also point out as a result of section (d), I believe, of the Whitten amendment, there has been a reenforcement of the agencies' responsibility for conducting audits of jobs under the Classification Act.

You will recall, Mr. Chairman, that section provides for an annual audit by the agencies of their jobs in order to assure the Congress that there has not been excessive upgrading of positions.

Mr.DAVIS Do you know how well that has been followed through?

Mr. MACY. The Commisson in its regular inspection program checks with the agencies to determine whether or not there has been such an annual audit and we find that generally the compliance has been satisfactory.

Mr. DAVIS. Do you find instances where that has not been followed?

Mr. MACY. Do you mean where the agency has not done an entirely satisfactory job it has been called to the attention of the agency?

Mr. DAVIS. Have you found much of that?

Mr. MACY. I would say a very limited number of cases, and there we have endeavored to work with the agency in trying to apply an annual audit that will meet the requirements of the statute.

Mr. DAVIS. Where you have found it has not been carried on, what did you find was the reason why it had not been done?

Mr. MACY. The reason why it has not been done?

Mr. DAVIS. Yes; why the agency has not been following through satisfactorily in compliance with that section.

Mr. MACY. Perhaps I may refer that to Mr. Barley.

Mr. BARLEY. I would say, in most instances, it is lack of staff—at least, it is so stated to us.

Mr. DAVIS. Do you think that is a correct statement?

Mr. BARLEY. I think on an annual basis it can be planned out and can be done to reasonably comply with the law, and should be.

Mr. DAVIS. And are you insisting that they do that where you find that they have not been doing it?

Mr. BARLEY. Yes; that is our approach.

Mr. MACY. Yes, indeed, so the agencies do have a responsibility for maintaining a satisfactory classification compliance within their own organizations subject to the Commission's standards and the Commission's postaudit.

Mr. CRETELLA. With regard to the 11,000 that resulted in downgrading and the 5,000 in upgrading, of the 11,000 resulting in downgrading how many of those were due to improper classification and how many, if any, were due to a reduction in force?

Mr. MACY. None of those, sir, would involve a reduction in force. Those would be instances where the job was improperly classified. The reduction in force action would be something separate again.

Mr. Chairman, there has been reference to the situation in the New York Customs office, and to assist the committee in evaluating that perhaps it would be helpful to include very briefly a Commission statement with respect to the survey in that office.

Mr. DAVIS. I wanted to ask you about that. Mr. Beiter over in the back of the room said that there were still 60 employees there, I believe, who had not been taken care of with reference to their downgrading.

In your statement you said that through the efforts of the Customs Service, with reassignments and changes of duties, no employee will lose money as the result of that audit. I understood Mr. Beiter to say there still remained 60 employees who stood to lose money as a result of it.

Mr. MACY. My information as of the 24th of June is that arrangements have been made with respect to all cases where downgrading was originally proposed so that the individuals could be reassigned, or where the salary could be maintained under existing law and regulations so that no individual would suffer a loss.

Mr. DAVIS. What about that, Mr. Beiter?

Mr. BEITER. It is my understanding that the matter was taken to court and that the 60 that are still involved will eventually be taken care of, but at the present time their jobs are still threatened.

Mr. DAVIS. Is that your information, Mr. Macy?

Mr. MACY. My information is not similar. Perhaps there is a misinterpretation of the information that has been provided, but I understand that, without court action, and without legislation, in all the cases where downgrading was involved, it will be possible to reassign, or save the salaries so there will be no loss of money. If I may, I would like to give a little background on that particular situation.

Mr. CRETELLA. Has there been court action with reference to any of those who have been?

Mr. MACY. There were a series of court actions earlier this year in an effort to restrain the Commission from carrying out the downgrading and that applied to a limited number of cases. As I recall, the District Court in New York did not finally take action to restrain the Commission and the cases are consequently being handled by us administratively. The action in this particular audit situation developed out of a survey conducted in 1953 during the months of April, May, June, and July. At the request of the chairman of the parent committee, and Congressman Becker, these particular results in this survey were reviewed by the Commission's central office in 1954, and that review was completed in December of 1954. As a result of this review there were about 572 upgradings in the Customs Service in New York and 110 downgradings. Forty of the 110 cases were closed out through these negotiations in various ways without downgrading. Fifty-five were eventually certified early this year to lower grades. Of the 55 cases certified, 24 were appealed, and as of March 8 there were 15 cases still pending.

My information is that as of June 24 those 15 cases still pending had been resolved without any loss to the individuals.

Mr. DAVIS. That would clear the board then.

Mr. MACY. That would clear the board insofar as these cases are concerned.

I would like to point out that cases of this kind, in the judgment of the Commission, are not in very large number. In most cases, the agencies do take action as the result of their own audit, or the Commission's audit to reassign the individual, or to take some other action so that there is not a loss of pay to the individual. So that our feeling is that the proposed administrative action that I have indicated, and administration by the agencies in accordance with the existing law, will make it possible to provide equitable treatment to employees without the passage of further legislation.

Mr. HENDERSON. Of the 11,000 who had been downgraded how many of those have not suffered financial distress?

Mr. MACY. I would say a very small percentage suffered any financial loss whatsoever. A large number of the 11,000 were subsequently resolved through negotiation between the agency and the Commission. In cases where that was not possible, the agency in most instances, through its own administrative action, was able to take care of the individual, so my response would be that a very small number would actually be involved in any loss in compensation.

I should also point out, as Mr. Stahl has suggested to me, that the existing regulations of the Commission, which were based on section 802 of the Classification Act, call for a regular practice of downgrading the individual to any step including the top of the next lower grade, or the grade to which the job has been reclassified, if it is not above the rate previously earned so that in most instances, unless the individual does have extensive seniority in the higher grade, the salary is saved through that particular provision.

Mr. DAVIS. How does that save his salary if you downgrade him one grade?

Mr. MACY. Let me be specific, if I may, with the pay scales that were authorized by the Congress.

Mr. DAVIS. You mean if you do not give him the pay raise he keeps the salary he has had all the time?

Mr. MACY. Let us take a specific example. A grade 5 job with an incumbent who has been in that job long enough to advance to the third step, which under the law is $3,940. In the event that he were downgraded, or the job were downgraded to class 4 as the result of an audit by the agency, or by the Commission, he would go to $3,925, which is the top step of grade 5, with a reduction of $15 in that particular case.

Mr. DAVIS. Under a schedule——

Mr. MACY. No, sir; that is under the Commission's regulations to the agencies pursuant to section 802 of the Classification Act of 1949.

Mr. DAVIS. What schedule are you reading from now?

Mr. MACY. I am reading from the schedule signed by the President on June 28.

Mr. DAVIS. What is the pay of grade 3?

Mr. MACY. $3,515.

Mr. DAVIS. Is that the figure that you used in your illustration?

Mr. MACY. In my illustration I used grade 5, step 3, which is $3,940.

Mr. DAVIS. That is under the new schedule?

Mr. MACY. That is under the new schedule; yes.

Mr. DAVIS. And if he were downgraded?

Mr. MACY. If he were downgraded to grade 4, he would go to the top step of grade 4.

Mr. DAVIS. What is that?

Mr. MACY. The top of grade 4 is $3,925, so that would mean a loss of $15 on an annual basis.

Under the Commission's administrative regulation which I have cited, if that individual could not be assigned by administrative action so as to lose no money at all, the agency would have the option to continue him at $3,940 depending upon his period of service. But in no instance for less than 26 weeks or 6 months.

Mr. DAVIS. Is that same proceedure being followed in all of these grading processes?

Mr. MACY. We have not put it into effect. This has been reviewed and approved by the Commission, and is now in the stage of implementation. Congressman Beeker indicated that sometimes the Commission is not as speedy as it might be. This is a highly complicated subject. We feel that we needed to take the study time that we have and that these regulations can be issued at a very early date.

Mr. DAVIS. Now, Mr. Macy, going back to your illustration, his salary would be $4,315 in grade 6, and if he were downgraded 1 grade, he would be downgraded to $3,925?

Mr. MACY. That is correct.

Mr. DAVIS. That would be a rather substantial reduction; would it not?

Mr. MACY. That is right.

Mr. DAVIS. What would you do in a case like that?

Mr. MACY. Under the new regulation he would have a period of 26 weeks and an effort would be made to revise the job, or to reassign the individual so that there would be no loss of pay.

Mr. DAVIS. Reassign him to another job?

Mr. MACY. Another job at grade 5.

Mr. DAVIS. Is that pretty easy to do? Can you find them pretty easily in a case of that kind?

Mr. MACY. Our experience has been in a great number of instances in the agencies that is possible. Of course, in some types of agencies it is particularly difficult because of the nature of the work, but we feel those instances are clearly in the minority.

Mr. DAVIS. A person downgraded then could be pretty certain that a new job would be located for him in the same grade and step so that he would not have to lose any salary, within that 26-week period?

Mr. MACY. The Commission's feeling would be that in the great majority of cases we reassign during that period of time.

Mr. DAVIS. Whose responsibility would it be, and who would become active in a case like that in trying to reassign the employees?

Mr. MACY. That would be the agency's responsibility, and it is now.

Mr. DAVIS. Suppose that he has a supervisor who does not like him anyway, and was glad to see him downgraded, that would lessen his chances of being reassigned, would it not?

Mr. MACY. It would perhaps lessen his opportunity, but in most instances these audits are called to the attention of the personnel

office and to an official at a higher level, and our experience has been that in a vast majority of cases agencies are desirous of seeing to it that the individual does not suffer any loss of pay.

Mr. DAVIS. And you do not think that a person by reason of some personal dislike might suffer where one who did not occupy that position would be satisfied?

Mr. MACY. I feel there are sufficient administrative controls to overcome a situation like that.

Mr. DAVIS. And he would have an ample opportunity to take his case to the personnel director and to the proper authorities there to see that he got justice?

Mr. MACY. That is correct.

I think that it also should be pointed out in cases where the Commission conducts the audit that the individual does have an opportunity to appeal to the Commission so that actions are reviewed on an appeal basis by the Commission. As I recall, in the past 5 years, there have been something in the neighborhood of 5,000 appeal actions that the Commission has considered.

Mr. DAVIS. And the Commission then does feel some sense of responsibility in following through in this matter?

Mr. MACY. Indeed so, and it would be apart of our regular inspection, every 2 years under the present plan, to review the administration of the Classification Act in this feature as well as other features, and report to the head of the agency and the Commission in the event there was any evidence of abuse.

Mr. CRETELLA. What has been the batting average on the 5,000 that took these appeals? How have they fared?

Mr. MACY. Mr. Cretella, I do not have my batting average with me. I am unable to answer. I would hazard the guess and say that the chances are that the agency administration of the Classification Act—the Commission's administration of the Classification Act—has resulted in sustaining the audit result in well over 50 percent of the cases.

Mr. DAVIS. Would you supply those figures for the record at this point, Mr. Macy?

Mr. MACY. I will be happy to do so, sir.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., July 27, 1955.

Hon. JAMES C. DAVIS,
House of Representatives.

DEAR MR. DAVIS: When I appeared before your committee on July 11, I promised to supply for the record some information about the number of Government employees who win classification appeals filed with the Civil Service Commission. We do not maintain such figures on a regular basis, but a sampling of nearly half of the classification appeals decided during fiscal year 1955 indicates that almost 1 case in 8 is decided in favor of the employee. The number of favorable decisions is almost exactly 12 percent.

I know of no reason why the experience in 1955 should have been any different than in previous years. Therefore, I think it is safe to conclude that on the average about 12 percent of the employees who appeal in any year are likely to win their appeal.

Sincerely yours,

JOHN W. MACY, Jr.,
Executive Director.

Mr. CRETELLA. Let me tell you that my batting average with your Commission, or the Veterans' Appeal Section, has been awfully low.

Mr. DAVIS. Have you finished your statement?

Mr. MACY. I have finished my statement.

Mr. HENDERSON. I have this question, Mr. Chairman: Throughout all the testimony it has been pointed out that it would be most desirable, or that the objective of the Commission is, to see that there is no financial downgrading as far as the employees are concerned. Would there be anything specifically wrong with spelling out that there shall be no financial downgrading?

Mr. MACY. Mr. Henderson, our feeling in a very small number of cases is that the proper administration of the act may result in a few instances of downgrading, and such an arbitrary restriction would tend to limit administrative judgment in taking care of the individual cases. We would prefer to have this kind of flexibility in the system so that the Commission and the agency can administer the act under agency standards rather than arbitrary limitations of that kind.

Mr. HENDERSON. Yes; but we are well aware of the fact that the individual employee then is left to the Commission's ability to work out something for him and that he is then more or less at the mercy of the ability of the agency, let us say, to find some way so that he will not suffer financial loss, and since it has been stated it is the desire that he shall not suffer financially, I am just wondering whether he should be left at the mercy of an agency which possibly is not as diligent as it might be, and perhaps find an impossible situation.

Mr. MACY. I think that we have to recognize by having an arbitrary statement to that effect it might very well contribute to a situation where other employees who are properly classified and performing the duties required by that particular grade level would be injured by the retention of the higher grade by the individual whose job is proposed for downgrading. I think that we have to look at the total picture. We also have to look at the basic objective of the statute which is to provide equal pay for equal work. It is a difficult objective to attain, but it would be our preference to avoid any out-and-out statement that there would be no downgrading, and to provide these additional guides to the agencies for working out adjustments as best they can.

Mr. DAVIS. Mr. Lesinski wants to ask a question. While he is not a member of the subcommittee, he is a member of the full committee.

Mr. LESINSKI. In my correspondence, I have a letter—and I do not want to put the person on the spot, so I will give no names—from an employee who was in grade 9. He was downgraded to grade 7. In turn, within a relatively short time, people were appointed to grade 9 doing the identical work that this person was doing, and for no reason whatsoever. One person was downgraded from 9 to 7 and two more were appointed to grade 9 doing the identical work that the person downgraded was doing and had been doing all these years. Now, in a case like that, what assurance do we have that these injustices will not occur? You cannot assure us of that?

Mr. MACY. No. It is a large organization we are dealing with, and it is very difficult to assure on any universal basis. Again, it would be difficult to respond to your particular question without knowing all the facts involved.

Mr. LESINSKI. That is what we are trying to get around, the fact that you people have not had the time to study all of these cases.

On the other hand, you should have some machinery set up for that purpose, but you do not.

Mr. MACY. Well, the agency has machinery for action such as that, and there is the opportunity to appeal.

Mr. LESINSKI. You think there is an opportunity to appeal later. On the other hand, the Commission does not take the time to do that. It downgrades people at the whim of these inspectors.

Mr. MACY. I respectfully disagree with you, Mr. Lesinski.

Mr. LESINSKI. I beg your pardon. Those are the remarks that I have received from dozens of people that it is done at the whim of the people who conduct the inspections, that they downgrade or upgrade the employees on that basis. In other words, the whole thing falls in the lap of the Commission.

Mr. MACY. My answer to that would be that it is at the judgment of the inspector that action is taken, based upon his knowledge of standards that exist and on his knowledge of other agencies where comparable jobs exist.

Mr. LESINSKI. That is true, but the individual who goes around and does the inspecting has nothing to base his background on. He simply judges, period, but he has nothing to go by, instead of having the Commission send out and establish qualifications for the job.

Mr. MACY. The Commission has established standards covering a large percentage of the jobs wherein classification auditors have had training and are constantly evaluating jobs which gives them a knowledge which they can apply in auditing the job with the agency, but there is no arbitrary action taken by Commission auditors. There is a discussion with the agency before any action takes place in an effort to resolve any conditions which would result in downgrading even before the first certification is made that the job should be downgraded.

Mr. LESINSKI. In the Federal Government whenever there is a contract let they require 3 bids or 5 bids on the job. Do you send out an auditor and have him report to you and then in turn send out another auditor to check over the first auditor's work to see whether he is right or not?

Mr. MACY. No, sir; we do not have sufficient staff to do that.

Mr. LESINSKI. You have no way of verifying whether the audit is proper or not?

Mr. MACY. No; but we have a supervisory auditor who reviews all reports on downgrading actions as well as upgrading actions, and then there is a careful review of it in each of the regional offices. In case an action in Washington is involved the review is made by Mr. Barley and his staff, and they set up other actions which the Commission proposes if they are in order and are proper.

Mr. LESINSKI. The report, as I get it, is that the auditors go out and do the downgrading of these people very indiscriminately. That is the reason you are here today, and that is the reason why we are considering this legislation.

Mr. MACY. I would be very happy, Mr. Lesinski, to meet with you on any of the cases that you have in mind, and to review the individual situations that are involved. The audit certainly is not indiscriminate in any way, and rather than being an arbitrary program we feel it is not arbitrary, and where such claims are made I would be very happy to review them with you to determine just what was involved in those cases.

Mr. LESINSKI. Your intent may not be to be arbitrary, but the result is.

That is all.

Mr. DAVIS. Mr. Cretella.

Mr. CRETELLA. Mr. Macy, from your statement, and from the very splendid presentation of your position on these particular bills, I gather that it is the intent of the Commission to do administratively what these bills propose to do without being tied down by mandatory legislation, is that correct?

Mr. MACY. Yes, sir; that is correct.

Mr. CRETELLA. And you have made a statement to the effect that the Commission is now taking appropriate administrative action to reduce the hardships on the employees. Now, apparently, the delay in bringing this about is due, perhaps, to the lack of personnel and the complexity of the problem as you have presented it. What is the likelihood of a deadline being established so that these things can be taken care of administratively?

Mr. MACY. Mr. Cretella, I would feel that the Commission would approve and release those regulations to the printer within the next 7 days.

Mr. CRETELLA. And these regulations are going to be standard for all of the particular agencies?

Mr. MACY. Yes, these will apply to all agencies as of the date that they are released and they will apply prospectively.

Mr. DAVIS. I was going to ask that same question. I have one more question to ask you. About a year ago, Mr. Macy, I had a communication from some people at Fort McPherson, Ga. That is in the Third Army area.

Mr. MACY. Yes, sir.

Mr. DAVIS. Those people were in the mechanical dental department where they do mechanical work of a dental nature. They felt that they were not in a high enough grade, and they had been trying to get upgraded instead of downgraded. I took it up with the proper officials, who sent people out to make an audit of the job, and they wound up by downgrading them. Do you happen to be familiar with that?

Mr. MACY. I am sorry, sir, I am not. I would be very happy to look into that particular case and discuss it with you.

Mr. DAVIS. I would appreciate it very much if you would let me know what you find out.

Mr. MACY. Yes, sir; I shall be very happy to do so.

Mr. CRETELLA. I am afraid your batting average in those cases is not good either.

Mr. DAVIS. Sometimes there seems to be resentment on the part of some Government officials if an employee is bold enough to take a matter up with their Congressman, which they think that they are entitled to do. Sometimes there is a penalty placed upon them. I would like to check into that. I would like to discuss it with you later, Mr. Macy.

Mr. MACY. I will do so, and I will call you when I have the file, Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Macy.

Mr. MACY. Thank you. It is a pleasure to appear before you.

Mr. DAVIS. Mr. William G. Hughes, Communications Chief, Army Communications, Department of the Army.

Mr. HUGHES. Yes, sir.

STATEMENT OF WILLIAM G. HUGHES, COMMUNICATIONS CHIEF, ARMY COMMUNICATIONS, DEPARTMENT OF THE ARMY

Mr. DAVIS. Have a seat, Mr. Hughes, and proceed.

Mr. HUGHES. Thank you, Mr. Chairman. It is a pleasure to appear before you gentlemen this morning. I want to apologize for some of the deficiency in accent that I may have. I have contracted a summer cold. I may sound angry in my talk, but I am not. I just happen to disagree with some people who have testified; but I am not angry with anyone.

Mr. DAVIS. We will take that into consideration, and will not hold it against you.

Mr. HUGHES. Mr. Chairman, and gentlemen of the committee, I am connected with the Department of the Army Signal Corps. My duties in the Communications Center. I am Chief of the Terminal Section.

I am here today representing myself and not the Department in any way whatsoever. I am here representing myself and the group of people who work with me and for me in the Communications Center where some proposed downgradings have been made by our civilian personnel people.

Mr. DAVIS. You are appearing in a personal capacity and not as an official?

Mr. HUGHES. Yes, sir, not as an official, but as an American citizen, as a taxpayer exercising my privilege under the law.

Mr. DAVIS. Well, we are glad to have you with us.

Mr. HUGHES. I would like to remark, as you pointed out before, referring to the respective agency cited here, that it takes a lot of courage to go out and try to beat the city hall, but sometimes we are confronted with problems where we think we should do that, and that is why I am here today.

I have a brief statement which I would like to read, and then make any comments on it which the committee would like to have me make.

Mr. DAVIS. Very well.

Mr. HUGHES. The following concerns the Terminal Section of the Department of the Army Communication Center.

The current grades were assigned as a result of a classification survey in mid-1952. In 1953, the positions were again reviewed, as prescribed by the Classification Act—that probably should be the Whitten amendment, I am not certain of that—and no changes were made in the grades.

In late summer of 1954 the positions were again surveyed. The position classifier who conducted this survey had only recently transferred to the Signal Corps from another agency, and by her own admission, admitted having no previous experience in classifying highly skilled and technical communication positions. Based on previous surveys, it was apparent that she lacked both ability and interest in ascertaining the complexities, technicalities, and responsibilities of the various positions. It is also understood that there were numerous complaints from other divisions of the Signal Corps where it was felt

that this same position classifier had conducted an inadequate survey. She is no longer employed in the Personnel Classification Section of the Signal Corps.

It was upon the type of survey described above that recommendations were made by this classifier to downgrade approximately 13 persons, from 1 to 2 grades, in the Terminal Section. Affected employees would suffer a substantial loss in compensation. Although this classifier is no longer with the agency, the Personnel Section proposes to comply with her recommendations.

It is the firm conviction of the Terminal Section personnel that there has been no change in the major duties and responsibilities of these positions; and that new job descriptions prepared by the position classifier are basically the same as those drafted and in effect since 1952 when the present grades were established.

The military superiors of the Terminal Section, through the level of the Chief, Army Command and Administrative Communication Agency, do not agree that downgrading is justified, and refuse to concur to these recommendations.

For a period of 6 months or more, no promotions were permitted in the section, even though vacancies existed; a natural deterioration of morale has resulted.

As a result of congressional interest in this case, the Chief Signal Officer has stated that his office would conduct a management survey of the section after July 1, 1955, and that no final classification action would be taken on the positions until after said survey had been completed.

In May 1955, promotions were permitted to be processed for personnel in grades that had not been recommended for downgrading. As of this date, no promotions into vacancies which have occurred in positions which were recommended for downgrading have been permitted.

Mr. DAVIS. How many people are involved in this downgrading, Mr. Hughes?

Mr. HUGHES. Approximately 13.

Mr. DAVIS. Just where is the location of the agency where that occurred?

Mr. HUGHES. It is in the Department of the Army Signal Corps.

Mr. DAVIS. Over here at the Pentagon Building?

Mr. HUGHES. Yes, in the Pentagon Building, in the Communications Center over there.

Mr. DAVIS. Are there any questions?

Mr. HENDERSON. Mr. Hughes, has there been any attempt, to your knowledge, to preserve for these 13 positions or individuals their present pay status?

Mr. HUGHES. No, sir; not to my knowledge. There has been nothing come to my knowledge if there was.

I must state here that I have not the detail of all of the conferences with the personnel people on this matter, but in the ones I have attended there was nothing said about retaining them, but just proposed downgrading.

I have a correction here. Where it says 13 positions in my statement it is 13 individuals, not that many different jobs. That should be corrected for the record. Those are persons, not positions.

Mr. HENDERSON. How many positions are involved, do you know?

Mr. HUGHES. There are four different grades involved in that, sir.
Mr. HENDERSON. Thank you; that is all.
Mr. HUGHES. Four different grades, thirteen people.
Mr. DAVIS. Are there any further questions?
Mr. CRETELLA. I have no questions, Mr. Chairman.
Mr. LESINSKI. I have no questions.
Mr. DAVIS. Thank you for your statement, Mr. Hughes. We will check into that. Thank you kindly for appearing.
Mr. HUGHES. Thank you, Mr. Chairman, and gentlemen of the committee.

STATEMENT OF MISS MARION M. PRICE, ADMINISTRATIVE ASSISTANT, ACCOUNTS BRANCH, DEPARTMENT OF JUSTICE

Mr. DAVIS. Miss Marion M. Price, administrative assistant, Accounts Branch, Department of Justice.
Are you also appearing in a personal capacity, Miss Price?
Miss PRICE. Yes, Mr. Chairman. Shall I read my statement?
Mr. DAVIS. Yes, we will be glad to have you do so.
Miss PRICE. My position was classified by the Civil Service Commission in April 1944 as administrative assistant, Grade GS–9. After 11 years the civil service, on postaudit, downgraded my position to GS–7, and reduced my salary from $5,936 to $5,080. Those are the old grades, not the new.
Mr. DAVIS. What was the date of that?
Miss PRICE. On February 13 my position was downgraded.
Mr. DAVIS. Of this year?
Miss PRICE. Yes.
My duties are exactly the same as they have been for the past 12 or 13 years, except for the duty of securing air priorities for travel which of course was not necessary after the war. Several other duties have been added which I am sure balance the loss of the air priority work. I even have the same superior officer (Chief of the Accounts Branch) who in the meantime has been upgraded, which would indicate the work has not become less important. I have always received excellent efficiency ratings and as far as I know there has never been any criticism of my work.
When I received verbal notice of my downgrading, the Chief of our Branch and I protested the action and our Administrative Assistant Attorney General assured us the Department would protest it. Later, when I received formal notice of the downgrading he said for me to appeal to the Civil Service and he would "back me to the hilt."
Mr. CRETELLA. Who was that administrative assistant?
Miss PRICE. Mr. Andretta.
After the article about saving salaries in downgraded cases appeared in the paper I called the attention of our personnel officer to the salary savings clause and he said he did not think it would apply in my case as they had changed the classification number and the title of my position, although my duties are certainly substantially the same.
After looking up the Comptroller General's decisions and the Federal personnel regulations I phoned the Civil Service Commission and was advised the salary-savings clause was an administrative matter

within the Department. However, our personnel officer said it was a question to be determined by the Civil Service Commission

My case is now pending before the Civil Service Board of Appeals and Review, with the request that they (1) reconsider the downgrading of my position; (2) that they approve the retention of my grade GS–9 on the basis of "for this incumbent only" and (3) that my salary be not reduced.

On March 10, 1955, I received a personnel action form stating my position had been downgraded from administrative assistant GS–9 to secretary, GS–7, and my salary reduced from $5,935 to $5,080, effective February 13, 1955.

I have been in the Department of Justice for 35 years, 30 of which have been in my present position and during the tenure of office of five different Chiefs of the Accounts Branch. A comparison of the 1944 and 1955 job descriptions clearly shows that the only subtraction from my duties is the air priority work, which certainly would not constitute a "substantial change in duties." I feel it is not the intent of Congress to reduce the salaries of downgraded employees under these circumstances and that the interests of Government employees would be more fairly protected by the passage of legislation rather than by allowing the Civil Service Commission to administer the salary-savings clause by regulation, or by leaving it to the department's discretion.

I want to express my deep appreciation for the interest this committee is taking in Government employees' affairs; also to Congressman Lesinski, Congressman Becker, and Mrs. Kelly. I would like to point out the importance of the retroactive feature—to July 1, 1954, in Mrs. Kelly's bill; also the phrase "to receive step increases" in Mr. Becker's bill.

Mr. Davis. Are there any questions?

Mr. Cretella. No.

Mr. Davis. Mr. Henderson?

Mr. Henderson. Was there any other downgrading done at the same time in your Department, Miss Price?

Miss Price. I understand that there are 31 others who were proposed to be downgraded, but mine is the only one that has been downgraded, and I am the only one who has received any reduction in pay. Of course, having been in my job so long, I was in the first longevity step.

Mr. Davis. And you said, I believe, that you have an appeal pending?

Miss Price. I have an appeal pending; yes.

Mr. Davis. Thank you very much, Miss Price for your statement.

Miss Price. You are welcome, sir. It was a pleasure.

STATEMENT OF JAMES A. CAMPBELL, PRESIDENT, THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. Davis. Mr. James A. Campbell, president, the American Federation of Government Employees.

Mr. Campbell. Mr. Chairman, for the record, my name is James A. Campbell. I am national president of the American Federation of Government Employees, affiliated with the American Federation of Labor.

Our federation is highly pleased with the decision of the House Post Office and Civil Service Committee to hold a hearing on the three bills under consideration because of their vital importance to many thousands of classified employees throughout the Federal Government.

We would like to express appreciation to the authors of these bills—Congresswoman Kelly of New York, Representative Lesinski, a distinguished member of the committee, and Representative Becker.

While the bills before the committee contain minor variations, they have a common purpose—protection from loss in take-home pay for an employee whose position is downgraded as a result of a classification action. The American Federation of Government Employees desires to express its wholehearted endorsement of this principle.

Bills with a similar objective were considered by this committee in the 82d Congress. While employee organizations, including the AFGE, testified in favor of the legislation, the Civil Service Commission advised the House and Senate Post Office and Civil Service Committees that the problem could be resolved by regulation. The simple fact is, Mr. Chairman, that a solution has not been found administratively. Each year thousands of Federal employees continue to suffer economic loss when the grade of their position is reduced.

How does this occur? In many instances, it results from an agency classification survey or a classification audit by the Civil Service Commission. Upon completion of the survey, the employee is informed that his position no longer warrants the grade he currently holds and that it will be reduced.

We have numerous communications in our files to indicate the method of operation in reducing grades. One example may suffice to illustrate the point.

In the latter part of 1954 supervisory employees of the tabulating division of the machine records department of a military agency were informed that their jobs were downgraded. Seven branch supervisors were reduced from GS–5 to GS–4. Three assistant branch supervisors were lowered from GS–4 to GS–3. This action was taken by the agency pursuant to a recommendation of the Civil Service Commission in making one of its classification surveys.

The positions had been allocated to the higher grades when they were first established 7 years earlier. When the question was presented to the Department, its response was that the positions had been given a higher grade than was warranted when they were first set up because it was felt in due course supervisory responsibilities would increase to the level required by the classification standards.

That may or may not be true. The point is that for 7 years these employees had received their pay based upon a certain classification grade. Suddenly they are informed that their grades will be reduced. They had no way of controlling 7 years ago the grades assigned to the supervisory positions, and they have no way today of determining what the grade of the job shall be. That is a classification function. Yet these employees were required to suffer monetary losses in these reductions.

The tragedy of this situation is that it happened in a division that experienced a 38.6 percent turnover of tabulating machine operators and supervisors during 1954. During the past 3 years the Civil Service Commission has been unable on most occasions to furnish lists

of eligibles for tabulating operator jobs. The situation had become so difficult that the Commission found it necessary to lower experience qualifications for GS–2, GS–3, and GS–4 operators.

Yet in the face of such recruiting and turnover problems, these employees were advised their positions were assigned to a lower grade.

This illustration points up another serious fallacy in our classification system. That is the lack of recognition of the responsibility the operating supervisor must be given in the classification process. Typically, a classification technician makes a final determination as to the grade a job warrants. The supervisor responsible for getting the job done has no way of participating in the classification action. Through years of personal experience, I have reached the conclusion that no position should be downgraded by classification specialists unless the responsible supervisor affirms that there has been a material change in the duties and responsibilities of the position in question. Acceptance of this principle would have avoided the unfortunate consequences of the classification action on the tabulating-machine supervisors referred to above.

Mr. Chairman, I could recite case after case involving similar inequities, but the time of the committee does not permit further comments on this phase of the problem.

The legislation before the committee today is important from another standpoint. Congress during the past several weeks has approved a salary increase for Federal employees. To the classified workers whose job is downgraded, the base pay increase may mean nothing. This is particularly true if the reduction in grade is severe enough to bring about a loss of take-home pay equal to the increase approved by Congress.

Quite frequently, these grade reductions happen after a reorganization has occurred in an installation or agency. It is possible that some of these reorganizations serve a useful purpose in improving the efficiency of the agency. We must recognize, however, that this is a tool of management to be used as a means of accomplishing the mission of an agency with greater effectiveness. The adverse effects of realinement should not be visited upon the employees, who are in no way responsible for the type of reorganization which takes place.

The same can be said of grade reductions resulting from classification actions. The classification technique is a tool placed in the hands of the Civil Service Commission and the agencies to enable them to accomplish their work in an orderly and effective manner. An employee whose job is classified has no way of determining the classification standards to be used on his position. Since the application of the Classification Act of 1949 has been made the responsibility of the Commission and the agencies, we do not feel that employees should be made to bear the effects of downgrading from a monetary standpoint.

Bills before the committee contain safeguards for maintaining proper classification standards. An employee would be able to continue receiving a higher rate of pay after downgrading only so long as he continues to perform the same duties and only if he meets the time requirements in the bills prior to downgrading. When the incumbent whose salary is saved leaves the position, the new appointee would enter at the appropriate grade and salary.

As for the specific measures under consideration by the committee, our federation recommends a favorable report on H. R. 3255 with

amendments permitting an employee to receive within-grade and longevity promotions while his salary is "saved." In addition, we suggest addition of language permitting the downgraded worker to receive higher pay if he becomes entitled to it by reason of operation of the Classification Act. Language covering both these recommendations can be found in the other measures under consideration today—H. R. 3085 and H. R. 5887.

Mr. Chairman, the question of downgrading in Federal service has become an increasingly serious one for Federal workers, particularly since the conclusion of World War II. Thousands of faithful employees each year lose hundreds of dollars when a decision is reached that their jobs should be assigned to a lower grade.

We urge most sincerely that the committee take favorable action on this legislation at the earliest practicable date.

Mr. Chairman, permit me to express the thanks of our members for the committee's making it possible for us to make known our views on this most important legislation.

Mr. DAVIS. Are there any questions?

Thank you for your statement, Mr. Campbell. We are glad to have it.

Mr. CAMPBELL. Mr. Chairman, I have been asked by Mr. Thomas G. Walters, operations director of the Government Employees' Council to submit his statement, inasmuch as he was compelled to leave the room here.

Mr. DAVIS. Yes, he spoke to me about it. So, just give it to the Reporter and it will be included in the record.

Mr. CAMPBELL. Thank you.

(The statement above referred to is as follows:)

STATEMENT OF THOMAS G. WALTERS, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYES COUNCIL, A. F. OF L., ON H. R. 3255, H. R. 3085, AND H. R. 5887

Mr. Chairman and members of this committee, by way of introduction, my name is Thomas G. Walters, operations director of the Government Employes Council of the American Federation of Labor, 100 Indiana Avenue NW., Washington 1, D. C., phone Executive 3-2820 and 3-2821.

The Government Employes Council of the American Federation of Labor is made up of 21 national and international unions whose membership, in whole or in part, are civil-service employees. The total Federal and postal employee membership of the Government Employes Council is more than 500,000.

Mr. Chairman and members of the committee, the Government Employes Council strongly endorse and recommend the approval of the provisions of H. R. 3255, H. R. 3085, and H. R. 5887.

We firmly believe that any employee, through no fault of his own, that is placed in a lower grade shall not receive less pay as a result thereof. It is only fair and just that the employees be protected in this manner against the practice of downgrading.

We sincerely hope and trust that this committee will favorably report H. R. 3255, and that the full committee and the Congress will support your recommendations on this most important legislation.

Appreciate the opportunity of appearing and making a statement on this legislation.

Mr. DAVIS. The House goes into session at 12 o'clock, so the subcommittee will now adjourn. A date will be set later, after consulting with the staff to see what dates are available, to hear the remainder of the witnesses.

(Thereupon, at 12 noon, the subcommittee adjourned subject to the call of the Chair.)

DOWNGRADING OF FEDERAL EMPLOYEES

TUESDAY, JULY 26, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. James C. Davis (chairman) presiding.

Mr. DAVIS. The subcommittee will come to order, please.

We are meeting this morning pursuant to our agenda of July 11, for the further consideration of H. R. 3255, H. R. 3085, and H. R. 5887. These bills have the general purpose of protecting employees against loss of salaries when their positions are downgraded after a certain period of service.

We are glad to have with us this morning our colleague, Hon. Chester E. Merrow, a Member of Congress from New Hampshire.

If you will come around, Congressman Merrow, we will be glad to have your testimony.

STATEMENT OF HON. CHESTER E. MERROW, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. MERROW. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I want to thank you for the opportunity to appear here this morning in support of this legislation. It is always a pleasure to appear before this committee. I was very happy at one time to be a member of the committee.

Mr. DAVIS. It is always a pleasure for us to have you back with us, Congressman Merrow.

Mr. MERROW. Thank you very much, Mr. Chairman. I have a brief statement. With your permission, I will read the statement.

Mr. DAVIS. Very well.

Mr. MERROW. Although supporting the principle of equal pay for equal work in the Federal civil service, I believe that certain circumstances exist in which exceptions should be made. One example of a case warranting special consideration is that of the person whose job is downgraded as a result of reclassification. I am happy to have the opportunity to testify on behalf of the legislation being considered by the subcommittee to protect such persons against cuts in pay.

By safeguarding the salaries of employees who have performed the duties of their jobs satisfactorily for 2 or more years, the proposed legislation does more than insure humanitarian treatment of loyal and efficient workers demoted through no fault of their own. The

proposed legislation also serves the public interest by eliminating a key source of bad morale and lowered productivity among both the downgraded employees themselves and their associates and friends.

I note that within the past few days the Civil Service Commission has changed its rules, to ease the blow of salary cuts through downgrading. Under the new rules, agencies may continue the pay of a demoted employee for 26 weeks—or a longer period for persons having more than 3 years' service. But nothing in the new rules requires an agency to provide the interim pay; nothing prevents an immediate cut. And agencies that do provide such pay cannot maintain the higher salaries for an indefinite period. Sooner or later, downgraded employees must accept a lower rate of pay.

Recent legislation providing for reclassification of postal employees furnishes a precedent for not reducing the salaries of downgraded employees. The Postal Pay Act states specifically that no postal employee shall suffer a cut in pay as a result of reclassification. In my opinion the Congress should approve the same provision for classified employees as was approved for postal employees.

In the interest of justice for the downgraded employee, as well as of the efficiency of the public service, I hope that this legislation will soon become law.

Mr. Chairman, I am glad the subcommittee is considering this general subject and hope a satisfactory solution can be reached.

Mr. DAVIS. Mr. Merrow, we appreciate very much the splendid statement you have given us. It indicates a good knowledge on your part of the subject which we are considering here and your statement undoubtedly will be very helpful to the subcommittee. We appreciate it.

Mr. MERROW. Thank you again, sir.

Mr. DAVIS. Are there any questions?

Mr. HENDERSON. You feel that any regulation that might be adopted by the Commission to try to solve this problem would not be as satisfactory as legislation; is that so?

Mr. MERROW. I feel that is so. It appears to me that would be the case. If done by legislation, there would be more protection.

Mr. HENDERSON. Thank you.

Mr. DAVIS. Thank you very much, Congressman.

Mr. MERROW. Thank you again, Mr. Chairman. It is always a pleasure to come here.

Mr. DAVIS. The next witness is Mr. Luther Steward, president, National Federation of Federal Employees.

We are glad to have you with us, Mr. Steward.

STATEMENT OF LUTHER STEWARD, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. STEWARD. Mr. Chairman and gentlemen of the committee, from the very genesis of a duties' classification of public service, there has been embedded the principle that upon the installation of any such system of duties' classification, the pay of incumbents of positions which under the new system were fixed at a lower rate than the occupant was then receiving should remain undisturbed as long as the particular occupant stayed in that position and that, subsequently, new appointees or assignees would be at the agreed-upon rate. That

was for two reasons. The first, that it would be clearly unfair, and so recognized generally, to impose on the employee who had accepted the salary offered in good faith and conducted his work satisfactorily; secondly, the morale factor, which is always considered very important.

That protection both for initial allocation and subsequent change was carried on in the Federal service and employees coming under the Compensation Act of 1923, as amended, received that protection until the act of 1949 which provided, in substance, that those coming in after the effective date of that act would not receive that protection.

Now when we consider subsequent changes in allocation due to post audit or investigation by members of the investigative staff of the Civil Service Commission operating in a field where the criteria is limited, the Civil Service Commission has been notoriously dilatory in establishing standards, in other words, setting up criteria to describe the various positions coming under the compensation of the Classification Act and which put the operating officials in a position to assign employees to certain grades in good faith, as a matter of opinion. Then along came a specialist who, as a matter of opinion, subsequently changed the rate downward to the detriment of the employee who, in good faith, accepted the position at the rate offered and carried on satisfactorily.

Now the proposal of the Civil Service Commission that a substantial portion of these cases may be somewhat protected by administrative action is repugnant both to one's idea of fair dealing and to good sense. All of these changes are due to administrative mistakes in which the employee had no part and it is reasonable to ask—why should the employee be adversely affected.

We feel that there is only one action, and that is for the Congress of the United States to enact H. R. 3255, Mr. Lesinski's bill—the other bills are substantially along the same line—to continue the protection which has always been granted to employees in this particular set of circumstances. It permits the operating agency and the Civil Service Commission for a period of 2 years to review their action—certainly abundant time—and, after 2 years of continued satisfactory performance in a position accepted in good faith, the employee's title to that rate of compensation should not be molested and that the sword of Damocles should not continue to hang over the employee who never knew, when he accepted the position, what the compensation would be from time to time, as long as it depends upon opinion and not upon established criteria.

We urge the prompt favorable report of H. R. 3255.

Thank you, Mr. Chairman, for the opportunity to be heard.

Mr. Davis. Are there any questions?

Mr. Cederberg. I have no questions, but I just want to agree with the witness. I think the gentleman takes the right position that if he has been in it for 2 years and then they try to downgrade him, he is entitled to some protection. However, if and as I understand this bill, it states if a man takes a position he knows there is a possibility within 2 years that he may be subject to an audit which may affect his salary if he has not been in the position 2 years—is that correct?

Mr. Steward. Yes, sir.

Mr. Cederberg. In my opinion, I think that is fair and reasonable and I think that is one of the general purposes of reclassification as

I have known it, from working in municipalities and so forth—if you reclassify the position, then you do not downgrade the incumbents in their positions after they have been there a given length of time.

I agree with that.

Mr. STEWARD. May I say, Mr. Cederberg, that has been embedded in all classification compensation systems on all levels in these United States, since more than 40 years ago when the first system was established.

Mr. CEDERBERG. I think one of the things we want to be sure and take care of is the function of the personnel officer involved, that he makes certain to advise the new employee that he is subject to that change within 2 years. If he does not do that, I think he is derelict in his duty, because I can see there is the possibility for a position to be given a salary and for the employee to come under the system after the salary has been fixed and then, after he is there for 6 months or a year, find the job is not what he expected it to be. The employee certainly should be forewarned.

Mr. STEWARD. Certainly the Federal Government is authorized to review, and you provide that, of their own motion.

Mr. HENDERSON. I thought the gentleman's statement was very clear and direct, but I do want to ask: Do you feel that the regulation which the Commission has just issued very recently does not take care of the situation adequately?

Mr. STEWARD. Very inadequately. It is, at the outset, an admission that there is an injustice which has prevailed; but it grants permissive authority, if they want to do this for a limited time, that they may. In other words, admitting error, it provides the possibility of correcting it partially. And whose error is it—the administration's.

Mr. DAVIS. Thank you very much, Mr. Steward, for your statement.

Mr. STEWARD. Thank you.

Mr. DAVIS. The next witness is Mr. Alfred F. Beiter, national president, National Customs Service Association.

I believe you are accompanied by Mr. Lester Levey, president of the New York City branch of the National Customs Service Association.

STATEMENT OF ALFRED F. BEITER, NATIONAL PRESIDENT, NATIONAL CUSTOMS SERVICE ASSOCIATION, ACCOMPANIED BY LESTER LEVEY, PRESIDENT OF THE NEW YORK CITY BRANCH OF THE NATIONAL CUSTOMS SERVICE ASSOCIATION

Mr. BEITER. Mr. Chairman and members of the committee, this is the first time I have appeared before the Post Office and Civil Service Committee since the passage of the Federal Employees Pay Act and, in behalf of the 6,000 customs service employees I represent I want to express our deep appreciation for the speed with which the bill was reported and enacted into law.

Now we have another problem before us. In the presentation made by the representatives of the Civil Service Commission, the statement was made to the effect although there were 100 downgradings involved at the time the postaudit was made in the port of New York in 1953, there were also 572 upgradings. Those figures are very misleading to this committee and I am of the firm belief it was done intentionally, for as early as March 8 of this year the Commission wrote to Congressman Becker and used the identical figures, and Con-

gressman Becker replied on March 21 that those figures were inaccurate, were not correct, and then they turn around and deliberately use the same figures before this committee. Those figures as submitted before are very misleading to this committee and I want to take this opportunity to place in the record a correct statement on the matter. The office of the collector of customs at New York will confirm my statements if the committee wishes to get in touch with that office.

The correct figure is not 572 upgradings; the correct figure is only 1 upgrading. The other 571 upgradings were not involved in the postaudit of the Civil Service Commission.

The upgradings were the result not of a representative of the Civil Service Commission coming to the person's desk or job in 1953 and recommending that the position be upgraded; they were the result of an entirely different situation. For 4 or 5 years prior to 1953, the inspectors at the port of New York had requested an upgrading of their positions. The matter was referred to the national office of the Civil Service Commission. Finally, after many years of investigation, discussion, conferences, and so forth, the national office of the Civil Service Commission prepared and published standards for the various positions.

On the basis of such standards, which were completed before the time of the postaudit in 1953, various individual inspectors were recommended for promotion to higher grades in accordance with standards prepared by the national office of the Commission. By coincidence, these individuals were moved from the lower grade to the higher grade in accordance with new standards—prepared in Washington and not in the New York regional office—at the time that the representatives of the New York regional office were performing their postaudit operation. Thus the New York regional office is claiming credit for 571 upgradings which were entirely unrelated to the postaudit operation.

Now, Mr. Chairman, I have a prepared statement and I think all the members of the committee have copies of it. I will skip portions of it. The first 2 pages of that statement give the history of the legislation introduced by Congressman Lesinski and Congressman Becker and cite the little differences that exist in the 2 bills.

Mr. DAVIS. We do have your prepared statement which we will study and you can highlight it and help us to move along. We have a number of witnesses and this is probably the last session we will have.

Mr. BEITER. I certainly will.

I wish to point out that employees in the Federal service enjoyed the benefit of salary-saving legislation until the passage of the Classification Act of 1949. Section 4 of Public Law 523, 71st Congress, contained the following language:

> *Provided further,* That in all cases where the Board shall change the allocation of a position to a lower grade the rate of pay fixed for such position prior to such change may be continued so long as the position is held by the incumbent then occupying it.

Executive Order 5473 issued by President Hoover on October 30, 1930, was issued pursuant to this section and the proviso is identical with the one provided in the act itself. I have a photostatic copy of the Executive order here and will leave that with the committee.

(The matter above referred to is as follows:)

EXECUTIVE ORDER

PROCEDURE PERTAINING TO CHANGES BY THE PERSONNEL CLASSIFICATION BOARD IN EXISTING ALLOCATIONS OF POSITIONS

WHEREAS section 4 of the act of Congress entitled "An act to amend section 13 of the act of March 4, 1923, entitled 'An act to provide for the classification of civilian positions within the District of Columbia and in the field services,' as amended by the act of May 28, 1928," approved July 3, 1930 (46 Stat. 1003–1005), provides:

"The Personnel Classification Board shall have authority to ascertain currently the facts as to the duties and responsibilities of any such position and to review and, subject to the President's approval, to change the allocation thereof whenever, in its opinion, the facts warrant: *Provided*, That such review and change shall be made only after consultation with the heads of the departments concerned and after affording all incumbents of positions affected an opportunity to be heard, of which hearing a permanent written record shall be made and kept, including all testimony taken: *Provided further*, That in all cases where the board shall change the allocation of a position to a lower grade the rate of pay fixed for such position prior to such change may be continued so long as the position is held by the incumbent then occupying it."

NOW, THEREFORE, whenever, in accordance with the provisions of the foregoing law, the Personnel Classification Board on its own initiative shall review and change the existing allocation of a position, such change is approved to take effect 30 days from the date when the notice of the change is received by the department concerned unless the head of the department shall file with the Personnel Classification Board, within that period, a protest against the change. If a protest is filed by the head of a department, the Personnel Classification Board shall promptly transmit such protest to the President, with a statement of its reasons for the change of allocation, and such protested change shall not become effective unless and until approved by the President.

HERBERT HOOVER.

THE WHITE HOUSE,
October 30, 1930.

[No. 5473]

Mr. BEITER. It is quite clear that until the passage of the Classification Act of 1949, employees were protected from losing salary in a downgrading action. As a matter of fact, the act itself provides two salary-saving clauses, which are described in the first annual report of the Civil Service Commission under the Classification Act of 1949 (H. Doc. No. 195, 82d Cong., 1st sess.) as follows:

There are two current salary saving clauses in the Classification Act: Section 604 (b) (11) and section 1105 (b).

Section 604 (b) (11) which applied to employees paid under the Classification Act of 1923, as amended, and continuing under the Classification Act of 1949, stated:

Employees receiving a rate of basic compensation, authorized by law, immediately prior to the effective date of this title, in excess of the appropriate new rate of the grade * * * may continue to receive such rate so long as they remain in the same position and grade, but when any such position becomes vacant, the rate of basic compensation of any subsequent appointee shall be fixed in accordance with this Act.

The benefit of this saving clause is contingent upon no change of position or grade.

Section 1105 (b) applied to employees whose positions were exempt from the Classification Act of 1923, and whose positions were brought within the Classification Act of 1949 for the first time. This section provided that—

An officer or employee occupying any such position on such effective date, and receiving basic compensation at a rate in excess of the appropriate rate of the grade in which such position is placed, shall continue to receive basic compensation without change in rate until (1) he leaves such position, or (2) he is entitled to receive basic compensation at a higher rate by reason of the operation of Title V or VII. When such position is vacated by such officer or employee, the rate of basic compensation of any subsequent appointee shall be fixed in accordance with this Act.

The general intent of this saving clause is that the employee's salary shall not be reduced by reason of a downward reallocation, so long as he continues to occupy the same position as on the effective date. A subsequent change of position or a reassignment, transfer, or promotion to another position in the same or a different grade, causes the saving clause to expire.

The Civil Service Commission realized that the effect of the Classification Act of 1949 might place employees, who subsequently were placed in positions under this act or promoted to other positions, in jeopardy of downgrading action which might result in loss of salary and, in its first annual report issued under this act in 1951, made a recommendation that Congress rectify this defect in the law.

On page 3 of the First Annual Report of the Civil Service Commission, under the Classification Act of 1949, House Document No. 195, 82d Congress, 1st session (1951), this recommendation is worded as follows:

The Commission therefore recommends that the Classification Act of 1949 be amended * * *

3. To provide, subject to necessary safeguards and controls by the Commission, that there shall be no reduction in the salary of an employee due to the downward-grade change of his position where there has been no substantial change in duties and responsibilities since it was last allocated.

On page 15 of the same report the following statement appears under the heading "Effect of Downward Reallocations:"

Employees affected are seldom personally responsible for the lack of conformance of their duties and responsibilities with the standards for the grades in which they are paid. Hence, most agencies are naturally somewhat hesitant to make downward adjustments and most employees are reluctant to accept them if a cut in salary results. An equitable solution of this problem would materially facilitate the administration of the classification program.

On page 16, under the heading "Salary Savings Provisions," the following statement is made:

In order to avoid the complications and loss of employee morale resulting from the reduction of salary due to the downward reallocation of positions under any of these circumstances, and in order to facilitate administration of the Classification Act, that act should be amended to include an additional salary saving provision.

The purpose of this bill is simply to correct this defect, and restore to the employee a measure of protection from mistakes in position classification made by others and restore to him the protection of his economic standard of living that was removed when the Classification Act of 1949 became effective. It will also make effective the recommendation contained in the First Annual Report of the Civil Service Commission under this act. Section 503 of the Classification Act of 1949 is the provision under which downgrading actions are made. It is similar in many respects to the wording of section 4 of Public Law 523, 71st Congress, except that the salary saving provision and the hearing provision are not included.

The balance of the material on that page is an explanation of the act and I will skip that.

In the First Annual Report of the Civil Service Commission under the Classification Act of 1949, the following statement appears on page 4:

Among the positions brought under the act for the first time were 518 customs clerks in the Treasury Department * * *.

The position of customs clerk was formerly provided for in the Bacharach Act of 1928.

Although these positions were placed under the act of 1950, the Civil Service Commission has failed to prepare and publish standards for the position of customs clerk as provided in section 401 of the Classification Act of 1949, and has failed to follow the directive of Congress in section 401 (b) of that same act, which specifically provides that the Commission shall keep the published standards up to date "so that, as nearly as possible, positions existing at any given time within the service shall be covered by current published standards." Almost all of the positions certified by the Civil Service Commission in the customs service at the port of New York were positions of customs clerks for which the Commission has failed to publish standards as required by law. All of these downgradings were based upon the opinion of a civil service investigator who used standards for other positions that are not comparable to the positions which were downgraded.

Mr. CRETELLA. In reading that paragraph, the print I have here says "Under the act of 1950" and, in reading it, you said the positions "as placed under the act of 1950." Which is correct?

Mr. BEITER. Were placed under the act of 1950.

Mr. CRETELLA. There has been no amendment to the act of 1950.

Mr. BEITER. That is right.

In the unfavorable report on this legislation submitted to this committee under date of June 13, 1955, the Commission states that it is aware of the questions of equity and the difficulties of personal readjustment which arise from grade reductions where a loss of pay is involved, but concludes that this situation can be taken care of within the normal administrative authority which the Commission has under the Classification Act.

It is quite surprising to the hundreds, or possibly thousands, of employees who have been downgraded and whose salaries have been drastically reduced that the Commission which claims to have this authority has not used this authority during the past 6 years. Frankly, we do not believe that the Commission has such authority. If, however, we are wrong and the Commission has such authority, we cannot understand why this authority has not been exercised in the thousands of downgradings ordered by the Civil Service Commission. It is equally impossible to understand why the Commission has insisted that in all downgrading actions ordered by the Civil Service Commission, the Commission has insisted that the positions be downgraded and the employees suffer a loss in salary before such employees have had an opportunity to file appeals against the downgrading action.

Another curious situation has been brought to our attention. The Civil Service Commission is not opposing this legislation because it says that the legislation is not basically sound. As a matter of fact, its report of 1951 recommends legislation of this character. Its report on this specific legislation dated June 13, 1955, however, appears to take the position that the legislation does not go far enough and does not protect all employees whose positions are downgraded.

It should be emphasized that the Classification Act of 1949 is not a perfect piece of legislation. It has many defects, including the defect that makes it possible for an employee to lose grade and salary through no fault of his own, but rather because of either a mistake made by the classifying officer in his agency, or by the civil service

examiner who postaudits his position. Another serious defect is the fact that the Civil Service Commission is given the power to act as prosecuting attorney, judge and jury in these downgrading actions. It is not our purpose at this time to attempt to remedy every defect in the Classification Act of 1949. The specific defect that this legislation is aimed at is the protection of an employee who has been appointed or promoted to a position at a specific grade, who has been performing the duties of this position satisfactorily for a period of 2 years and who thereafter is reduced from such grade by reason of reallocation of his position to a lower grade due to no fault of his own. We do not feel that the Commission has authority to accomplish this, and for that reason we are asking for specific legislation on this subject. If the Commission feels that it should also attempt to assist employees not covered by this legislation, and feels that it has authority to help such employees, we can see no reason why it does not forthwith prepare suitable regulations to accomplish this purpose. If, on the other hand, the Commission feels that it does not have such authority, it should recommend appropriate legislation at some future time. We do not feel that the reasons advanced by the Commission for defeating legislation of this nature are valid. We therefore urge that this committee adopt this legislation, as written, in order to protect employees from loss of income through no fault of their own.

It is the opinion of the members of this organization that the matter of protecting civil-service employees from losses in grades and salary should not be left to the administrative discretion of the Civil Service Commission. The fact that the Commission after 5 years has not found it convenient or appropriate to prepare and publish standards for the position of customs clerk, which position was legislatively recognized as early as 1928, makes it quite clear, particularly to employees in the Customs Service, that unless Congress provides positive safeguards in the form of legislation, the employee will be left with very little security and will be subject to arbitrary reductions in salary which are in no way due to any fault on his part. If the reduction is based on the fault of anyone, it should be charged to either the error of the classifying official in the agency, or the classifying official of the Civil Service Commission. However, regardless of whose mistake it is, the employee, under the present act, must suffer the loss in pay. It is our opinion that this highly inequitable arrangement should be corrected at once.

An excellent example of the way in which the downgrading process operates under existing law was demonstrated by the recent action of the Civil Service Commission, based upon its survey of the Customs Service in 1953. An employee was reduced two grades and was informed that his reduction in pay would be $900 per annum. Since this employee was a married man with a small family who had recently purchased a small home in the suburbs and moved his small family from the slums in which he formerly lived to nicer surroundings, he was faced with several alternatives:

(1) Sell his house and move his family back to the slums.

(2) Try and keep up the payments on his home by securing part-time work in the evenings or sending his wife to work evenings.

Fortunately, the administrative official was able to transfer this employee to another position at the same grade level as the one from which the employee faced demotion.

It is noted that in the unfavorable report of the Civil Service Commission dated June 13, 1955 the plan which is mentioned but not disclosed would permit a "temporary period of salary retention for employees who are downgraded so as to allow ample time for possible reassignments and, if necessary, for personal readjustment." The period of time is not mentioned.

Mr. Chairman, that recommendation they make is too little and too late. For instance, in a small port like Savannah, Ga., with 15 or 20 employees working at that port, it is not possible for the administrative officer to assign them to a different position and the same holds true in other ports of a similar nature. For instance, in the port of New Haven, also a small port, it is impossible to assign those men to other positions after a recommendation for downgrading has been made. The same applies to Detroit, Cleveland, and small ports. In the larger ports, a port of comparable size to New York—and that is the largest port in the world—it can be worked out probably over a period of 6 months time; but 6 months is not long enough for an agency to place these men in other categories.

The possible reassignment would depend upon whether there was in the agency another position of similar grade to which the employee could be moved. However, where an employee is moved in this manner it usually prevents the promotion of a lower grade employee who was next in line for promotion. In the event that no position of similar grade is available, it then becomes necessary, according to the Civil Service Commission, for the employee to make a personal readjustment. In the case of the employee who had just purchased a home in the suburbs, a personal adjustment, of course, would consist in moving his small family back to the slums. We do not believe that this is a method that the United States Government should adopt in handling its employee problems. This legislation will protect employees from loss of salary caused by a mistake made by someone else and which is not due to any fault on the part of the employee.

We wish to point out that the plan proposed by the Civil Service Commission of providing a temporary period of salary retention for employees who are downgraded so as to allow ample time for possible reassignments and personal readjustments is no remedy at all. The Commission has no control over agency policy nor over congressional appropriations. For this reason it does not and cannot offer employees any measure of protection from downgrading actions at all.

Because of the complete grant of power to the Civil Service Commission over all classification actions and in view of the fact that the Commission has seldom reversed the action of its investigators, we believe that the committee should give serious thought to the creation of an impartial board to review the actions of this Commission, since such actions have in many cases been quite arbitrary and were not based upon a consideration of all factors involved in the original classification.

The National Customs Service Association therefore urges that this legislation be adopted to protect civil-service employees and their families from unjust, unfounded, and unexpected reductions in grade and salaries.

In conclusion, I would like to read a letter from a former cashier of the United States Customs Service at Houston, Tex., which I think

speaks for itself more eloquently than anything I can say. The letter is signed by Neva U. Glover, former cashier, now teller, United States Customs Service, Houston, Tex., and reads:

MY DEAR MR. BEITER: I am the most disillusioned and bitter employee in the Government service, for after having served faithfully and conscientiously for 34 years and having reached the final step of grade 8, I was notified by the Civil Service Commission on July 9, 1954, that I would be downgraded to GS–7 with a cut in salary of $415 per annum. This was a bitter pill to take. Gone is all desire to give my fullest ability to my work. There is no incentive to strive to advance. Why should I strive to be a good career employee if the Civil Service Commission comes around every so many years and knocks employees down in grade and salaries, after having served in that grade for a number of years with the full sanction and approval of the Civil Service Commission?

I think of the early years in the Service when the agents would call me at all hours of the night to take their liquor and dope cases, with no thought of extra pay or time off. I think of the many, many extra hours of work before overtime pay or compensatory time was heard of that I gave to my beloved service and Government, and this is how it all was appreciated. How can the Government keep good, faithful, loyal employees with no protection for their positions and salaries?

And now that I have reached the bloom of life where I can look forward to retirement and resting on my laurels and hard work, my precious annuity will be so much smaller because of this downgrading. The Government has had the best years of my life, my youth, they do not offer me much for my old age. I wish someone with authority could understand the deep disappointment a downgrading gives an employee.

With kindest regards to you and thank you for letting me tell you my troubles, I am—

I might say that is a correct statement according to my recollection.

I thank you for permitting me to present our problems to you and I trust you will not stop with the regulations that have recently been issued by the Commission, but you will adopt this legislation.

Mr. DAVIS. Are there any questions?

Mr. CRETELLA. I was interested in the part of your statement on page 6, the third paragraph, where you say—

All of these downgradings were based upon the opinion of a civil-service investigator who used standards for other positions that are not comparable to the positions which were downgraded.

That is a conclusion you reach. What are the facts on which you predicated that conclusion?

Mr. BEITER. I will let Mr. Levey answer that, if you do not mind.

Mr. LEVEY. This statement was based on the facts as they were developed at the port of New York. Now at the port of New York, most of the positions that were downgraded were customs-clerks jobs that were formerly covered by the Bacharach law. The Bacharach law was passed to correct a situation like this, where the collector at New York was unable to get the highest type of people for the complicated work they have at the port of New York; so Congress passed the Bacharach law giving these people a little higher grade.

When the act of 1949 was passed, this position of customs clerk which was legislatively recognized was placed under the Classification Act in 1950. From 1950 to 1955, even though the Civil Service Commission is directed by law to publish and print standards for jobs in the Service, they completely ignored the position of customs clerk. In the downgrading report, they compared the various jobs to all kinds of other standards, or no standards—standards for jobs not in any way similar to the work being done by the customs people at New York.

Mr. CRETELLA. What were the jobs, for instance, they compared them with?

Mr. LEVEY. I can give you a few examples. We have a group of people they call district clerks. Along the waterfront at New York, these fellows act sort of like a desk sergeant at the police station. They get all of the reports from the inspectors, confirm orders to deputies in charge of various districts, and do a lot of clerical work. When the deputy, who is a very high-grade man, I think grade 9 or 10, by comparison, is away, the inspector will call up and these fellows will answer questions.

What the civil-service inspector did there was to compare this work with secretarial representatives, and their job is no more similar to a secretary's job than my job. It is more or less an executive job. But those were the standards they used.

That one I remember is principally the one that is outstanding; but there were so many jobs, so many comparisons, that it is pretty hard to follow each one.

In other words, the Civil Service Commission instead of writing standards for particular jobs, used standards that let them cover the same type of work.

Mr. CEDERBERG. You stated, I think, that one of the things that we have to remember is the difference between the position and the employee. I will always defend the right of the Civil Service Commission to go in and postaudit positions.

Mr. BEITER. That is right.

Mr. CEDERBERG. Because that should never be taken away from them. If that was ever done—and of course I do not believe any such thing is in contemplation—then the whole thing could run wild. However, I will always defend the right of the employee, once he has been placed in a position, to be protected from downgrading through no fault of his own; but also we always have to remember there is the right of demotion at times.

Mr. BEITER. That is true.

Mr. CEDERBERG. For employees who are not properly performing their job in a given position. I think you have all of those things to take into consideration.

But I think what we are dealing with here is the procedure under classification whereby an employee taking a job in good faith should not be downgraded because of an error in some other department than his own; and also because of the lack or inability of the Commission, through a period of time, adequately to go in there and audit these particular jobs. It is not the fault of the employees that they cannot get that auditing done. Probably it is no one's fault, when we realize how big the job is; but I think you have clearly to understand the difference between positions and employees in the positions.

Mr. BEITER. We fully agree with you on that.

Mr. DAVIS. Thank you very much, Mr. Beiter.

(The following is the statement submitted for the record by Mr. Lester Levey:)

STATEMENT OF LESTER LEVEY, PRESIDENT, NEW YORK BRANCH, NATIONAL CUSTOMS SERVICE ASSOCIATION

Mr. Chairman, I am grateful for the opportunity you have afforded me to appear before this committee in connection with H. R. 3085, H. R. 3255 and H. R. 5887 which are designed to protect employees from being deprived of a

part of their income by reason of downgrading action on the part of the Civil Service Commission through no fault of the employee involved.

I have been employed by the United States Government in a civil-service position for the past 28 years, practically all of which has been spent in the Customs Service at the port of New York. Our organization is composed entirely of customs employees.

When the representatives of the Civil Service Commission appeared before this subcommittee opposing passage of this necessary remedial legislation, they made much of the point that the passage of this legislation would violate one of the basic principles of position classification, that is "equal pay for equal work." I would like to remind the committee that the purpose of this legislation is not to upset any of the principles of the Classification Act. Its only purpose is to protect the standard of living of persons who have been assigned to an improper higher grade through no fault of their own but through an error on the part of a classifying officer who is presumed to be an expert in the field of classification, from any loss of pay occasioned by the downgrading of the position from its erroneous allocation to a correct allocation. Under any of the proposed bills, the Government agency still has the right to move this man to a position in the proper grade and appoint another employee to a lower graded position. There is nothing arbitrary or mandatory in this legislation. It is merely a safeguard to the economic welfare of all civil-service employees. This type of safeguard will make it possible for the Government to offer a measure of security to persons seeking employment in the Federal service.

The representatives of the Civil Service Commission and both Congressman Lesinski and Congressman Becker have indicated that the impetus for this long-needed legislation originated in some rather abritrary and far-reaching downgrading of customs employees at the port of New York. Although I am appearing merely as a representative of those employees, I have learned that downgrading actions of this type have been widespread throughout the Government and that this legislation will protect all civil-service employees. As a result of the various downgradings there has been a decided loss of morale on the part of civil-service employees. When I refer to civil-service employees I am referring not merely to the several thousand whose positions have been downgraded or who have suffered a monetary loss. I am referring to the more than 1 million civil-service employees who realize that at any moment an examiner from the Civil Service Commission can come into his office, arbitrarily state that his position was classified too high and certify his position for downgrading.

Another point I wish to stress is that the proposed new legislation does not in any way operate to prevent the Civil Service Commission from exercising the powers granted to it under the Classification Act of 1949 of policing the classification of positions in the Federal service. It merely protects the individual from loss of salary through no fault of his own but by reason of someone else's error. Since the representatives of the Civil Service Commission have stated that they also favor the principle of retaining employees at their present level of salary for a period sufficient to permit the agency time to transfer an employee to another position of equal grade, they should have no objection to this type of legislation. If their real objection to this legislation is that they cannot trust personnel officers in other agencies to properly allocate positions to proper grades, they have the right under section 504 of the Classification Act of 1949 to revoke or suspend the authority of any agency to classify positions. I cannot understand the thinking behind the opposition to legislation that is so necessary to bring the Classification Act up to date.

The salary-saving clause in the Classification Act protecting employees who still occupy the same position that they occupied in 1949, the date of the passage of the Classification Act, from loss of salary would be brought up to date by this proposed legislation. Under the present setup the incompetent or unambitious employee who is satisfied to remain in the same position that he occupied in 1949 is protected against loss of salary. The superior employee who is earning promotions by doing a better job since 1949 does not have this protection. The purpose of this legislation is to treat the various employees equally and thereby bring the Classification Act up to date rather than have its beneficial protective clauses cease to operate as of 1949.

The representatives of the Civil Service Commission when they appeared before this committee on July 11 made the following statement:

"We know that the impetus for salary retention legislation came from the reduction in grade of certain positions in the customs service in New York These reductions resulted from a postaudit conducted by the Commission. The

Commission has been informed that, through the efforts of the Customs Service, reassignments and changes in duties have been made so that no employee will lose money as the result of this audit. This situation which aroused sentiment in favor of these bills has been satisfactorily resolved under present law and regulations."

Although this statement is not entirely incorrect, it omits the reasons for the promulgation of this sound remedial legislation. Were it not for the fact that many individuals spent a great deal of time and effort in attempting to secure a fair and equitable solution to the problems created by the arbitrary attitude of the Civil Service Commission, it is doubtful whether the situation which gave birth to the introduction of this legislation would have been "satisfactorily resolved." As a matter of fact if the existing law and regulations had been permitted to take their normal course many of the employees at the port of New York would have been downgraded in the fall of 1953. Again in April of 1954 orders were issued for the downgrading of certain positions and again a delay was obtained for more thorough consideration. Once more in August of 1954 approximately 50 positions were certified by the Civil Service Commission to be downgraded. Again a delay and review was obtained. Finally in January of this year orders certifying approximately 150 positions at the port of New York for downgrading again were issued. Court action was instituted and finally the Civil Service Commission and the administrative officials discovered after 2 long years a way to accomplish something which would have required no effort at all if any of this legislation was in effect.

Another feature about the Classification Act that I would like to call the attention of this committee to is the fact that the only administrative recourse open to an employee who has been downgraded is an appeal right back to the very agency that ordered the downgrading, namely, the Civil Service Commission.

It has been our experience that in almost every case where an employee has appealed against a downgrading ordered by the Civil Service Commission, the reviewing authority (the Civil Service Commission) has consistently agreed with the position taken by the civil-service classifier. This fact I believe emphasizes the need for an individual board not connected with the Civil Service Commission to review actions taken by the Civil Service Commission and to protect employees from arbitrary Commission action. Under the present system an appeal to the Civil Service Commission is considered to be a waste of time, since generally speaking the so-called review has merely operated as a rubber-stamp approval of the action of the civil-service classifier.

The representatives of the Commission made much of the fact that the legislation before this committee would result in unfair treatment of employees. We do not believe that this is a valid position for the Commission to take since their function is merely to ascertain that a position is allocated to its correct grade. As a matter of fact, we would like to point out that the present system is highly unfair and inequitable to many groups of employees. I could cite hundreds of instances but for the sake of brevity I will cite only one example. There are two employees in an office. A vacancy in a higher grade position occurs and the superior employee is promoted. Later on a second vacancy occurs, and the second employee is promoted to that position. A civil-service investigator enters the office and orders the job of the first employee downgraded. In this instance you have a superior employee downgraded and an inferior employee retained in another higher grade job because of errors made by someone else, in classifying a position at an improper level. The present law does not protect the deserving employee from arbitrary action of this nature. The remedies proposed by the Civil Service Commission would not protect him to a very great extent either, since it leaves everything to chance. If an employee is employed in an agency that has many positions of many grades, it can always make readjustments. If on the other hand, the agency is small and does not have too many grades available for the shifting of personnel, the employee is penalized, again through no fault of his own.

It is my opinion that while this legislation does not offer a perfect solution of all the defects in the Classification Act, it will have the effect of protecting deserving employees from arbitrary action caused by someone else's mistake and not through any error or fault on the part of the employee.

Mr. Davis. The next witness is Mr. Clarence H. Olson, assistant legislative director, legislative commission of the American Legion, accompanied by Mr. John S. Mears, of the Economics Commission, the American Legion.

STATEMENT OF CLARENCE H. OLSON, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION, ACCOMPANIED BY JOHN S. MEARS, OF THE ECONOMICS COMMISSION, THE AMERICAN LEGION

Mr. Olson. My name is Clarence H. Olson; I am assistant director, national legislative commission, the American Legion.

We appreciate the opportunity to come before you and be present in your committee this morning, just as the American Legion appreciates the very fine interest you have demonstrated in behalf of civil-service employees in the past.

Mr. Davis. Who is with you?

Mr. Olson. Mr. John S. Mears, who is administrative assistant to the director of economics, called the economics commission of the American Legion. He works in that office. He deals primarily with complaints of Federal employees. Therefore he is qualified to discuss some of the matters before you this morning.

We come here in behalf of the legislation to amend the Classification Act of 1949 so as to prevent indiscriminate reduction of any Government employee's salary on the basis now possible under the law.

We were here on the 11th, I believe, and listened quite attentively to the testimony of the Civil Service Commission representatives which indicated that the legislation under consideration has already had a most salutary effect, in that it has elicited promises from the Civil Service Commission to try to do something about this problem which has been with us for some years.

Mr. Davis. They issued an order since that time which has been published in the Federal Register. You probably are familiar with it.

Mr. Olson. Yes, sir. And that order has been given consideration by our economic commission. However, speaking for the American Legion, we would prefer having the protective devices spelled out in the law, rather than in promises of an agency of the Government.

Mr. Mears has a three-page statement that would not take long to read; but, if you desire, in the interest of time, that he highlight it, he will do so.

Mr. Davis. If we had the time for all of these written statements I would be very glad to have you do that, and it would be very helpful to us, because we could hear it instead of having to read the statement later. But because of the limitation of time, I would suggest that he highlight it as much as possible.

Mr. Mears. Thank you, Mr. Chairman and gentlemen.

The first page of the statement deals primarily with technical aspects of the three bills under consideration. We have recommended, for various reasons, that H. R. 5887 be favorably reported, primarily for certain technical reasons that we consider important; one being the fact that H. R. 5887 protects the employee after he has served for 1 year, rather than 2 years.

Secondly, it amends the act by adding a section to title V which deals primarily with the power to classify and reclassify positions, which we feel might be the appropriate act to amend. However, these are merely recommendations of somewhat small importance as to the technical aspects.

Our primary purpose in appearing here is because we feel certain administrative practices that have been taking place in the last few

years are violations of the Veterans' Preference Act. We have many situations of veteran employees who are downgraded and it has been the policy established through the years to do this administratively under the Veterans' Preference Act. We have taken the opposite view, but have never been able to successfully convince the Civil Service Commission and its various regional offices of this. We have never had a case within our particular knowledge to go to court upon this question. However, there has been a case decided in the Federal court for the eastern district of Pennsylvania which indicates that downgrading through no fault of the employee, such as this, is not considered "cause" as used within the terms of the Veterans' Preference Act which will promote the efficiency of the service.

Therefore we feel that the passing of this legislation pending before you this morning will greatly strengthen veterans' preference to a certain extent because there have been numerous occasions of administrative actions which we feel have been a violation.

We also have run into a problem which is a little bit difficult to explain in a very short period of time, but, briefly, it runs something like this:

An agency will have a certain reorganization plan go into effect, and because of this reorganization plan certain jobs are abolished or eliminated, and the incumbents of these positions therefore are reassigned downward. They are transferred to other jobs, but because there is no complete separation from the service it has been the policy of the agencies and the Commission that these are not reductions in personnel, and therefore certain protection given veterans by section 12 of the Veterans' Preference Act which deals with reductions in personnel are not applied, and section 14 of the act is applied. Therefore, although the downgrading is the result of an action which we feel is in the nature of a reduction in personnel, since it abolishes certain positions, they only give effect to the section 14 of the act, and in a sense we run into a certain vicious circle in that they have already decided, as I stated before, that downgradings of this nature are permitted by the Veterans' Preference Act. Again we come to the same question which I mentioned before, that we believe that downgradings, because of no misconduct or inefficiency on the part of the employee, are a violation of the Veterans' Preference Act.

However, the policy has been to decide that the other position is correct, and we feel this legislation will correct this problem.

Mr. DAVIS. What are the provisions of section 12 of the Veterans' Preference Act to which you refer?

Mr. MEARS. They permit certain possibilities of reassignment, and so forth, to a veteran who has high retention preference, higher than other employees in the same reduction in personnel.

Mr. DAVIS. It amounts to a reduction in force?

Mr. MEARS. Yes, sir.

Mr. DAVIS. What are the provisions of section 14 to which you referred?

Mr. MEARS. Generally they are that no employee has a preference eligible under the act shall be separated or reduced in rank or compensation except for such cause as will promote the efficiency of the service.

The Civil Service Commission and the agencies have unanimously and throughout the years decided that any time you take some

money away from an employee that that is the sole consideration to decide efficiency, and have decided—I am assuming that is their reasoning—that if you reduce a man in grade you are paying him less money and you are promoting the efficiency of the Government. I think that is erroneous, first of all, because I don't believe pure reduction of salary alone is the only factor to consider, whether or not you increase efficiency of the service.

But, nevertheless, we have felt this was a violation of the Veterans' Preference Act, and, as I say, there has been a decision in the Federal court in the eastern district of Pennsylvania, in 1952, which stated that reductions of this sort were not cause which would promote efficiency of service in accordance with the clause in the Veterans' Preference Act. It created incompetence or people guilty of wrongdoing.

We speak here this morning not only in behalf of the overall equity of this situation, but we speak specifically because we feel that the prevention of the reduction in pay will prevent preexisting practice which we feel is a violation of the Veterans' Preference Act.

Mr. CEDERBERG. I cannot quite see how under this particular bill the Veterans' Preference Act comes in. Here we are dealing with positions, not necessarily people.

Mr. MEARS. Yes, sir.

Mr. CEDERBERG. We are dealing with positions. People fit into these positions whether they are veterans or not, no matter who they are.

Mr. MEARS. Yes, sir.

Mr. CEDERBERG. The only thing we are dealing with, as I understand it here, is whether or not, if a person is in a given position and he has been in it a length of time, regardless of his station in life, whether he is a veteran or not, he is going to be protected from a loss of salary because the Civil Service Commission, after auditing the position, feels it is higher than it should have been.

I cannot quite see where the Veterans' Preference Act is involved here.

Mr. MEARS. Let me try to explain. First of all, there are approximately 50 percent of the Federal employees who are veterans. When we get into the male category only the percentage is higher. The American Legion is interested because of the group of veterans concerned.

We speak generally in favor of the equity which these bills will accomplish, but we also have this specific problem:

We are required to protect Veterans Preference Act. The Veterans Preference Act says that no preference eligible, as the veteran is referred to in the act, shall be separated or reduced in rank or compensation except for such cause as will promote the efficiency of the service.

We have taken the position that that phrase "for such cause as will promote the efficiency of the service" was intended to mean a certain thing and did not mean to include that a mistake made administratively, when corrected, was such cause as would promote the efficiency of the service as was contemplated by that phrase in the Preference Act, and that when an error is corrected and a preference eligible arbitrarily is reduced in compensation, that that act violates that section of the act.

Mr. CEDERBERG. In other words, you state that the Veterans Preference Act automatically in your opinion prohibits the downgrading of anyone in the position even though the position is, shall we say, reaudited and found to be of a lesser grade than it is at the present time?

Mr. MEARS. In accordance with this the only decision I have been able to find, it would appear that is the case. If this legislation is favorably enacted that question will not be in existence.

Mr. CRETELLA. Do you take the position that if there are two employees in the identical fix, and they are downgraded because of the postaudit, your interpretation of the Veterans Act is that the nonveteran would suffer the downgrading and that the veteran could not be downgraded because there is neither a reduction in force nor the other qualification which you read into the Veterans Preference Act? Is that right?

Mr. MEARS. That question, as I say, never specifically has been answered, but if I follow you correctly it would seem that is what the Preference Act states. It never has been decided directly in point.

I will say this: When that situation happens, the Civil Service Commission has accepted appeals from veterans as coming within the purview of section 14.

To my knowledge none ever have been won or allowed, but they do to this extent admit that that question exists because they do accept the appeal.

They have always held, however, that it was permissible under the act.

Mr. CRETELLA. Do you know when the first Veterans' Preference Act was enacted into law?

Mr. MEARS. The very first one was in 1865, I believe.

Mr. CRETELLA. I am talking of modern times.

Mr. MEARS. I believe in 1912. I believe there were provisions in the law which followed that.

Mr. CRETELLA. The main impact of the Veterans' Preference Act came after World War I. Isn't that so?

Mr. MEARS. I would say so, sir; yes, sir.

Mr. CRETELLA. We now have 22 million veterans; do we not?

Mr. MEARS. That is very close, sir.

Mr. OLSON. The American Legion certainly favors a strong civil service, and we realize that without a civil service the veterans preference itself would not work.

It is not our intent to come here this morning in any way to discriminate against the other half, we will say, in the matter of this legislation under consideration. We believe in the philosophies which have been advanced by members of your committee and witnesses who have appeared before you this morning.

We address ourselves to veterans preference particularly because that is our business and that is why we are here. We are working under mandates to strengthen and protect wherever possible the veterans preference features.

Mr. CRETELLA. Don't misunderstand my question. I am not fighting——

Mr. OLSON. I understand that, sir. I just wanted to make clear our position.

Mr. CRETELLA. I happen to be a veteran myself.

Mr. Olson. I know that, sir.

Mr. Cretella. I just want to find out what your thinking is in a position such as the one I submitted to you.

Mr. Mears. If I may, Mr. Cretella, I would like to clarify what I attempted to say here, briefly this:

That at the present time, because of our mandates to protect veterans under the Preference Act, we are forced now, although we never have been able to do it successfully, to take the position as you stated it, we feel that the equitable thing to do in this particular field would be to pass this legislation and to protect everybody, veteran and nonveteran alike, and thereby eliminate this problem completely, and at the same time we would not have this question of whether or not it is a violation of veterans preference.

Mr. Davis. You feel in passing this act the whole body would be benefited?

Mr. Mears. That is right.

Mr. Henderson. Then this legislation would have a twofold purpose?

Mr. Mears. Yes, sir.

Mr. Henderson. It would eliminate what you see to be a loophole in the Veterans Preference Act and, in addition, it would improve the service?

Mr. Mears. That is right.

Mr. Henderson. The legislation under consideration provides for a freeze, let us call it a freeze, in the compensation. In other words, a position being downgraded, the person himself is to receive the same compensation.

Do you see any difference between that and a possibility of a freeze in the position as long as the incumbent holds it?

Mr. Mears. Referring to periodic increases, sir?

Mr. Henderson. No. The legislation we are considering now permits the downgrading of the position but holds the pay of the individual at its present rating.

Do you see any difference between that and, let us say, a provision that as long as the incumbent holds the position the position itself shall be maintained in the same class?

Mr. Olson. I think one of the previous witnesses touched on that. If they do make a mistake and put a man at grade 10, for instance, and later determine it should have been a grade 8, I don't think we want to take the position and say that that grade 10 position should be frozen there for whomever may fill it but I would rather say that as long as John Jones is in grade 10. After he had been hired and satisfactorily performed the functions in that position he should be left in that grade, and if they reduced it to an 8, and John Jones still worked there, I think he should get the pay at grade 10.

Mr. Henderson. It wouldn't make much difference——

Mr. Olson. No; except if you froze the position it might go on ad infinitum. While the individual is in there it makes no difference.

Mr. Mears. It might be sort of an academic question. I am not sure what the results would be as to whether or not there is any difference. I would say if you reduced the grade but maintained the pay of the individual, that is reduced the job, that might give rise as to certain arguments as to unequal pay for equal work. I don't believe there would be that many cases to make that a serious draw-

back, and I don't believe there would be much difference which way it worked. I think it would be better to reduce the job and reallocate it, but to maintain the individual employee's salary.

Mr. DAVIS. You gentlemen have given us a very interesting discussion of this legislation from the veterans' standpoint. We always appreciate having you.

Mr. OLSON. Thank you very much, Mr. Chairman and gentlemen.

Mr. DAVIS. The next witness is Mr. Russell M. Stephens, President, American Federation of Technical Engineers.

STATEMENT OF RUSSELL M. STEPHENS, PRESIDENT OF THE AMERICAN FEDERATION OF TECHNICAL ENGINEERS

Mr. STEPHENS. My name is Russell M. Stephens. I am president of the American Federation of Technical Engineers affiliated with the American Federation of Labor.

The people I represent are the engineers, architects, draftsmen, scientific personnel of the Federal Government.

Mr. Chairman, and members of the committee, I am happy to be afforded the privilege to appear before this committee in support of H. R. 3085, H. R. 3255, and H. R. 5887. Although there are minor differences in the bills under consideration, the basic intent of all three is the same and the American Federation of Technical Engineers gives wholehearted endorsement to the principle contained therein. All three bills would provide a much needed amendment to the Classification Act of 1949, which would assure that employees, who had satisfactorily performed the duties of a position at a given grade and who was subsequently reduced from such grade by the reallocation of his position to a lower grade, would continue to receive his basic compensation as long as he remained in the same respective position. However, when the position became vacant the compensation of the new employee filling that position would be fixed in accordance with a rate provided for such lower grade. This is much needed legislation, Mr. Chairman, and we wish to express our sincere appreciation to Congresswoman Kelly, Congressman Lesinski and Congressman Becker for their introduction of the three bills being considered.

Similar legislation was considered by the 82d Congress but failed to become law after the Civil Service Commission had advised both Houses of Congress that the problem could be handled administratively and that legislation was not required. Time has shown that the Civil Service Commission had made an error of judgment, and it now is apparent that legislation is required in order to protect the economic welfare and well being of those Government employees, who through no fault of their own are reduced in grade and remuneration.

It might be well at this point, Mr. Chairman, to consider the reasons why employees are thus downgraded and reduced in the amount of their take home pay. In order to illustrate how this is done I will use the Planning Department of the Philadelphia Naval Shipyard as an example. This one example that I am quoting will of course be applicable to many Federal agencies where downgrading has occurred.

In the autumn of 1952 position classifiers from the area wage and classification office of the Office of Industrial Relations, Department of the Navy, went into the Planning Department of the Philadelphia Naval Shipyard and made a survey of the classifications of the

engineering and design force in that agency. As a result of that survey, 67 engineers, naval architects, draftsmen, and technical personnel were reduced in grade 1 or 2 classification steps. This during a period in our Nation's economy when the recruiting and retaining of such classes of personnel was at an alltime low. This situation has not improved to date, and both Government and industry find it impossible to obtain sufficient numbers of highly qualified technical personnel. Included in the 67 downgradings referred to above were 38 GS–11's who were reduced to a GS–9 classification. Employees in this group had up to 11 years' service with the Federal Government and sustained an average annual loss of $475 in pay. Nine GS–9's with up to 5 years' of Federal service were reduced to GS–7, sustaining an average annual loss of $500. Four GS–7's with up to 3 years' service were reduced to grade GS–6, sustaining an average annual loss of $500. Two GS–7's having 2 years' Federal service were reduced to grade GS–5 and sustained an annual loss of $200. Five GS–6's with up to 10 years' Federal service were reduced to GS–5 and lost $300 per annum by such reduction. Four GS–7's with up to 10 years' service were reduced in grade to GS–4, losing an average of $465 per annum. Two GS–4's with up to 10 years' Federal service were reduced to GS–3 at a reduction of $250 and 3 GS–3's with up to 10 years' service were reduced to GS–2 at a loss to them of $200 per annum.

The GS–2 and 3 level, where the salary is just a bare living existence, that $200 is an awful lot of money to people in that grade.

Of the 67 employees so downgraded, 15 of them were restored to their original classification by the appeal procedure route. However, the remaining 52 were retained in the lower grades. Of that 52, Mr. Chairman, 11 employees in the GS–9 and GS–11 bracket, highly experienced naval architects and engineers, sorely needed by the Government in its defense efforts, resigned their positions and were employed at much higher rates outside of the Federal Government. The loss of such experienced technical know-how is irreplaceable, and a sad picture is painted indeed when the Government loses such skills because its employee relations program is not such to compete with outside interests.

Now, Mr. Chairman, what reason did the persons responsible for such downgrading give to base their decision that the jobs being performed by those employees were not worth as much money as they had been worth in previous years. The position classifier stated that at the time that the positions were originally allocated the Philadelphia Shipyard was engaged in a new ship construction program, but that at the time of the survey the Philadelphia Naval Shipyard was in the midst of a program of an overhaul and repair nature. It was stated by the classifier that in the construction of new ships the local shipyard has a higher "degree of control" over the work being performed than it has when engaged in an overhaul and repair program.

I fail to see, Mr. Chairman, why the rank and file employee, whose technical knowledge and know-how is as valuable to the Government, regardless of whether the top administrative controls are vested in the local activity or in the Bureau of Ships, as is the case for ship alteration work, could be reduced in salary because of such allocation of authority and administration. Ship overhaul and repair work, from an engi-

neering standpoint, is often much more difficult than that involved in new engineering and design due to the fact that in many instances, the designer must solve many complex problems in order to fit the new facilities into the existing structures. I can say from my personal experience in the engineering field that modification and rework was always considered a "dirty job," requiring much more ingenuity in some cases than new work.

Now, Mr. Chairman, it has been almost 3 years since the classification survey was made in the Philadelphia Naval Shipyard, and since that time several of the downgraded engineers have resumed work on new design. However, there has been no new wage survey in the yard and those employees who are working on new design, who had been reduced in grade because they had in 1952 ceased to work on new design, have not been upgraded to their previous positions. This is certainly an injustice to the employee and one that could be corrected by the passage of legislation similar to that being considered. I would recommend, however, Mr. Chairman, that the committee seriously consider making such legislation retroactive to at least January 1, 1950, in order to give fair treatment to those employees, who through no fault of their own have suffered as a result of inconsiderate administrative actions.

In closing I wish to express my sincere gratitude for the privilege I have been afforded to testify here today.

Mr. DAVIS. Questions, gentlemen?

(No response.)

Mr. DAVIS. We thank you very much, Mr. Stephens, for your statement.

The next and final witness on this list is Mr. W. H. Ryan, president of District 44, International Brotherhood of Machinists.

STATEMENT OF W. H. RYAN, PRESIDENT, DISTRICT 44, INTERNATIONAL BROTHERHOOD OF MACHINISTS

Mr. RYAN. My name is William H. Ryan. I am president of district 44 of the International Association of Machinists. I am privileged to represent that portion of over 900,000 members of the association who are working for the Federal Government throughout the 48 States and insular possessions.

Our members are employed in naval shipyards, Army ordnance stations, Panama Canal Zone, Alaskan Railroad, and various hydro-hydroelectric projects under the Department of the Interior, Government Printing Office, Bureau of Engraving and Printing, and the mail-equipment shops.

I certainly appreciate, Mr. Chairman, the opportunity to testify this morning on these three very fine bills.

I would like at this point, Mr. Chairman, to ask your permission to insert in the record a supplemental statement of Thomas G. Walters, operations director of the Government Employees' Council.

Mr. DAVIS. We will be glad to have that. That statement may be admitted.

(The statement of Mr. Walters referred to is as follows:)

SUPPLEMENTAL STATEMENT OF THOMAS G. WALTERS, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, A. F. OF L., ON H. R. 3255, H. R. 3085, AND H. R. 5887

Mr. Chairman and members of this committee; by way of introduction, my name is Thomas G. Walters, operations director of the Government Employees' Council of the American Federation of Labor, 100 Indiana Avenue NW., Washington, D. C.

The Government Employees' Council of the American Federation of Labor is made up of 21 national and international unions whose membership, in whole or in part, are civil-service employees. The total Federal and postal employee membership of the Government Employees' Council is more than 500,000.

Mr. Chairman and members of the subcommittee, due to recent developments I respectfully request permission to file an additional statement on the intent of H. R. 3255, H. R. 3085, and H. R. 5887.

On July 11, I appeared before this committee in support of the intent of the above-named bills and strongly recommended that this type of legislation be approved by this committee and the Congress during this session of the Congress.

Under date of July 12, as operations director of the Government Employees' Council, I addressed a telegram to you, Mr. Chairman, and to the members of this subcommittee urging that this legislation be amended to include Wage Board employees.

Under date of July 22, 1955, the United States Civil Service Commission issued a press release explaining the Commission's new governing regulations covering certain employees demoted through no fault of their own and not through a reduction in force. We extend our compliments to the United States Civil Service Commission for issuing these new governing regulations that we have been requesting for several years. The new governing regulations are a step in the right direction but fall far short of eliminating the evil of demoting employees in the Federal service.

We cannot help but feel that if the pending legislation was not being considered by this committee the Commission's new governing regulations would not have been issued. In fact, it is our considered opinion that the Commission's governing regulations is their answer to the provisions of H. R. 3255, H. R. 3085, and H. R. 5887. We cannot agree that the Commission's new governing regulations is a complete answer to the legislation now being considered by this committee. The Commission's new regulations do not protect Wage Board employees against loss of wages due to downgrading of Wage Board positions by employing agencies. It likewise does not protect all employees now under the Classification Act that might be transferred to Wage Board positions, or at least that is the way we interpret the new regulations.

Yesterday we sent a telegram to Hon. Philip Young requesting that the new regulations be amended to include all employees who are downgraded through no fault of their own. A copy of the telegram is inserted as part of this statement:

"Hon. PHILIP YOUNG,
Chairman, United States Civil Service Commission,
Washington, D. C.

"The Government Employees' Council representing all types of employees covered by the Classification Act and Wage Board employees respectfully urges the Civil Service Commission to amend the Commission's new governing regulations issued July 22, 1955, to protect all Wage Board employees and all employees covered by the Classification Act against loss of wages due to downgrading of their positions by employing agencies."

Mr. Chairman and members of the subcommittee, I would like to emphasize the fact that the Commission's new governing regulations are not mandatory but that the agencies may continue to pay a demoted employee, under certain conditions, the same salary he received prior to his demotion for a period of at least 26 weeks.

We are strong in our opinion that legislation should be enacted into law making it mandatory on all agencies to protect those employees who are demoted through no fault of their own and to put into law the principles as outlined in H. R. 3255, H. R. 3085, and H. R. 5887.

The Government Employees' Council deeply appreciates the opportunity of submitting this additional statement on the pending legislation.

Mr. RYAN. Mr. Walters' statement supports the statement I am going to make and also supports the suggested change which I would present to the committee on this legislation.

We think this legislation is very much needed legislation to protect the arbitrary downgrading of Federal employees to lower paying positions when they are not at fault in the action.

We have numerous occasions where Federal employees have been downgraded after performing excellent service in their respective grades. We think that this legislation ought to be expanded to include Wage Board employees. We urge this very much because we cannot see the justification in protecting only a portion of the Federal employees.

The Civil Service Commission has had an opportunity to administratively correct these inequities for a number of years, and it has not been until just over this past weekend that they have issued governing regulations which, incidentally, are not compulsive in their nature whatsoever. They only permit the agencies to take certain actions to preserve the pay status of employees downgraded through no fault of their own.

When this news release from the Commission was announced, I directed a phone inquiry to the Commission to get an interpretation from them as to how far they intended their regulations to go. This is what I learned from them:

That the regulations would apply to Classification Act employees going into a lower Classification Act position.

It would also apply to Wage Board employees going into a lower Classification Act position.

The governing regulations, however, would not apply to Wage Board employees going into a lower Wage Board position. Neither would they apply to Classification Act employees going into a lower Wage Board position.

We have over the years had experience with a number of inequities in this area, and I would like to cite just 2 or 3 very recent ones.

Out at the naval air station in Alameda, Calif., the agency had some 25 truckdrivers on their rolls. These individuals were hired into the activity as truckdrivers. They were certified by the Commission as truckdrivers.

A little later on, I would say some years later on, just recently, there was an audit of positions out there, and they found some of these truckdrivers driving what they call industrial tractors throughout the activity.

An industrial tractor is a small tractor which hauls small trailers throughout the shops and throughout the streets of the activity. These trailers are loaded with heavy materials and they go in and around very expensive machinery in the various shops, and they are weaving in and out of personnel working in the shops.

The Navy Department decided that the operation of an industrial tractor was not as responsible as the operation of the truck, so they decided to reduce some of the 25 individuals who were rated as truckdrivers.

They didn't reduce them according to their seniority or according to any retention preference. What they did is to just take some 15 who were operating industrial tractors and said to those individuals that "At such and such a date your salary will be reduced and you will be reduced into a lower level of pay."

These people were performing the work of driving these industrial tractors because they were told to do it. It wasn't their fault that they had received this assignment. Therefore they suffer a loss of pay.

I think that that one example should point up very vividly the inequity of this entire downgrading process.

We have an instance down in the Army Ordnance Arsenal at Huntsville, Ala., where people are being downgraded and taking a loss of from 4 to 34 cents per hour.

These downgrading actions are a rather complicated thing. It reminds me somewhat of the oldtime philosophy of the efficiency expert, when he would go into a firm to try to get some efficient operation out of the firm. One of the first things he used to do was to ask for the payroll.

He would go down the payroll and he would pick out certain rates of pay which he thought were too high. That would be the first thing which would be done, so as to justify his continuance on the job as an efficiency expert. Regardless of the responsibility of the job certain people would lose certain amounts of wages.

It is my position that these so-called classification experts are operating in the same area. The first thing they have to do is to justify their existence, and the easiest way to do it is to arbitrarily downgrade a job. When I say "arbitrarily" I mean exactly that.

The employees have very little to say about the evaluation of their jobs, and that is one of the reasons, gentlemen, why I am before you here this morning to ask you seriously to consider an amendment to any one of these three bills which will include wage board employees or employees whose wages are fixed by any other administrative action.

I certainly appreciate the opportunity of testifying on these bills and I want to thank you all very much, and I would be happy to answer any questions that any member of the committee might care to direct to me.

Mr. DAVIS. Question, gentlemen?

Mr. CRETELLA. I will ask you the same question I asked one of the witnesses 2 weeks ago when he had this legislation under consideration:

Is there any similarity between this proposed legislation—prohibiting downgrading after a period of 2 years under 1 bill and 1 year under another bill—and the situation in private industry where a man is downgraded?

Mr. RYAN. In private industry all downgrading actions are usually appealable under grievance machinery which has been negotiated by the unions representing the employees and the management.

They have in some instances set up boards composed of union representatives and management representatives which go into the mechanics of regrading a job.

Failing to reach any conclusions in that method the case usually goes to arbitration, and it is settled in that manner by a disinterested person, that is a person not connected either with management or labor.

Mr. CRETELLA. What you have referred to is the machinery to try to adjust a situation, but there is no provision that I know of in private industry, union contract or otherwise, which guarantees a man in a job against downgrading after the lapse of a year or two.

Do you know of any such arrangement?

Mr. RYAN. Well, it has been my experience, speaking from my experience in our own organization in private industry, downgrading in any private industry plant would have to be based upon very, very valid and recognizable reasons. Otherwise the provisions of the contract and arbitration would not permit predication of such an injustice on an employee after being taken into an organization, into a firm, hired in at a specific job, the job not having changed in content at all, and all of a sudden take a reduction in pay, an arbitrary reduction in pay. They wouldn't permit that.

No militant organization would permit their members to be treated in such a manner.

Mr. CRETELLA. Would your answer be the same if a man was improperly graded to start with?

Mr. RYAN. If a man was improperly graded to start with, certainly that is not his problem.

I think, sir, that if this legislation were enacted it would probably focus the attention of the administrators on their primary duty to properly grade jobs in the first instance. I think that this legislation might force that.

I cannot sit here and say that the administrators have improperly graded all jobs. Of course, they are subject to error as all of us are. There may be some few instances where jobs are improperly graded, but I do not think that that is the rule.

Mr. CRETELLA. Taking the line of activity in which you are most interested, naval architecture and design—is that correct?

Mr. RYAN. No, sir. That was the previous witness, Mr. Stephens.

Mr. CRETELLA. Let us take that particular case. Suppose a man is hired in a higher category as a naval architect and it turns out after a period of time that he is merely a draftsman and does not have qualifications for the higher job? Would you say in private industry he should be retained, or even under Government supervision he should be retained in the higher job because he was improperly graded?

Mr. RYAN. I think, sir, that the fact of whether or not he was actually performing a draftsman's job instead of an architect's job would be one naturally of a matter of opinion which you would have to arrive at in each specific instance.

I think certainly when we try to resolve matters of opinion, some machinery ought to be available so that the employee who might be adversely affected gets a fair shake under it.

Mr. CRETELLA. The answer is, too, is it not, that a man's shortcomings in a job should certainly be discovered in less than 6 years?

Mr. RYAN. That is correct.

Mr. DAVIS. Thank you very much, Mr. Ryan.

Mr. LESINSKI. Mr. Ryan, I am not on the committee but I would like to ask a clarification.

Is it not true that an individual working for private industry or for the Government is hired for a specific amount of salary when he comes into the Government?

Mr. RYAN. Yes, sir.

Mr. LESINSKI. In private industry, I know it is so in my own organization, if a man is hired as a truckdriver he does other work besides a truckdriver's job, unloading, loading, and so forth.

Mr. RYAN. Yes.

Mr. LESINSKI. I think the parallel is quite proper here. As it happens he might be unloading a truck somewhere. The inspector might come around and say "You are a common laborer. Your salary should be cut." In spite of the fact that his qualifications are higher, an inspector comes around when he might be doing a lesser job, even though he is hired for the higher pay job, and he is cut because of the fact that he is doing that particular job at the particular time instead of the job he was hired for. Have you had that experience?

Mr. RYAN. Yes. I am a former Federal employee, a machinist employed at the Watertown Arsenal, Watertown, Mass. The Army has an evaluation system, a job evaluation system of grading jobs, a very arbitrary one. I happened to have been a grade 19 machinst, which was a higher rate of pay than a grade 17 machinist.

We had three shifts of operation on the particular job to which I was assigned.

They put on the second shift following me a grade 17 machinist, and the ground rules of the system provide that if this grade 17 machinist could pass muster at the end of 90 days on the job he then was eligible for the grade 19 position.

This particular individual I might say I thought was a better machinist than I was, even though he was a grade 17 man. He seemed to be able to get out more work than I did in 8 hours, and his quality was equal to mine.

At the end of 90 days he approached his foreman and said to him "How is my performance on this job for 90 days?"

The foreman said, "Fine, getting along fine."

He said, "I would like to have my grade 19 rating."

So the foreman said, "Well, we will have to look into that."

Turned around, walked away, and the very next morning, the very next afternoon, that grade 17 man was off the job and another grade 17 man put on to run the gantlet for another 90 days, and if he opened up his mouth he would go back to the salt mines, too.

That is a matter of assignment, and that is just the point you bring out.

A lot of these people are assigned temporarily downward or upward, and if they are assigned temporarily upward they don't get the money. If they are assigned temporarily downward they get the cut.

Mr. CRETELLA. I thought you were going to tell us the next day you were down to 17.

Mr. LESINSKI. In private industry if a job is eliminated then there is downgrading, but invariably there is no downgrading on a specific job which has been established. Is that true?

Mr. RYAN. I know of no instance in private industry where an established job would be downgraded.

Mr. LESINSKI. Where in the Federal Government there is downgrading, regardless of whether a job has been in existence a long time, it falls back on this: The Civil Service Commission has not done its job and the respective agencies have not been careful in placing positions in their proper classification. This legislation would force them to do the duty they are required to do.

Mr. RYAN. I believe it would, sir.

Mr. LESINSKI. That is all, Mr. Ryan. Thank you.

Mr. DAVIS. Thank you very much, Mr. Ryan.

Mr. DAVIS. Mr. Reporter, I will admit into the record the letter from Mr. F. C. Scharff, president of Lodge 1560, AFGE, and a statement of Lodge 1560, American Federation of Government Employees accompanying that letter.

(The documents referred to are as follows:)

PHILADELPHIA 37, PA., *July 11, 1955.*

HON. JOHN LESINSKI,
Old House Office Building,
Washington 25, D. C.

DEAR CONGRESSMAN LESINSKI: Lodge 1560 sincerely appreciates your efforts in behalf of the many employees who have been unfairly downgraded due to the whim or fancy of successive analysts.

We have prepared a statement setting forth our views on your bill which we would appreciate having introduced into the official records of the House Civil Service Committee.

Sincerely yours,

F. C. SCHARFF,
President, Lodge 1560, AFGE.

STATEMENT OF LODGE 1560, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, TO HOUSE CIVIL SERVICE COMMITTEE

Lodge 1560, AFGE, at Frankford Arsenal respectfully desires to make known its views on H. R. 3255 which we believe provides a practical solution to a recurring situation which presents very serious management problems to Federal agencies, not to mention gross injustice to thousands of individual employees.

Briefly this problem has two main facets:

(*a*) The first and most serious due to its magnitude and its chain reaction effect is the downgrading as a result of cyclical position classification audit.

At Frankford Arsenal as in other agencies the Wage and Salary Section of the Civilian Personnel Office has in our opinion done its best to implement the directives of the third regional office of Civil Service Commission in regard to the interpretation of the position classification standards established by the Civil Service Commission and as a result hundreds of positions have been downgraded. However, the above standards are incomplete, partially obsolete, and of a general nature, so that the burden of classification rests on the individual analyst who in most cases lacks technical knowledge of many positions he must classify. He therefore must rely on the inadequate published standard, e. g., fire control design engineer is covered by position classification standard 836 while the third Civil Service regional office insists on evaluation under automotive design engineer position classification standard 832 despite the fact that the engineers are working exclusively on fire-control materiel.

It is common knowledge and our personal experience that a position will be classified in different series and at different grades by successive analysts despite the fact that the duties and incumbent have not changed, the difference between titles and grades in identical positions in geographically separated installations of the same agency is even more pronounced. Thus civilian personnel with the same duties and responsibilities under the jurisdiction of one civil service regional office vary as much as three grades from an agency under another regional office, depending on the rigidity of the local interpretation of the standards.

As can be imagined this variance has a demoralizing effect on the employee and does not promote the efficiency of the service. A more serious aspect is the untenable position of management in these cases. On the one hand, they have a dissatisfied employee who believes he is underpaid when he sees his counterpart in another agency earn more. On the other hand, they are constantly preoccupied in reorganization in order to conform to outmoded standards designed for other positions. In addition, since most downgraded employees have "bumping rights," they must constantly shuffle and train personnel to accomplish their mission. While management's position is untenable the position of the employee is even worse. We had one whole branch of technical personnel (with the exception of one individual) including branch and section chiefs disqualified for the very position they had been performing for years as a result of a change in the title of the position. They were originally classified as industrial specialists, then equipment specialists, and finally as procurement analysts.

A situation like the above only illustrates the inadequacies of the classification standards and the ease in which our Federal employees are downgraded.

We feel that the legislation proposed by Mr. Lesinski will at least protect the employee from loss in compensation and thus discourage his exercising the bumping right. In effect it will protect the more experienced and productive employees who are in the higher steps of a particular grade since those in lower steps usually are not penalized monetarily due to overlapping of pay rates in adjacent grades.

We wish to emphasize that we believe the civilian personnel officers of the agencies and the regional offices of the Civil Service Commission are sincere in their job evaluation and surveillance efforts. However, we also believe that management of the installations are denied their right to adequately participate in grade determination.

(*b*) The second facet is that an employee may be downgraded if the CSC or the agency discovers an error or omission in appointment or promotion of an employee. There have been numerous examples of this throughout the Federal service. In some current cases the agency hired the employees during the Korean emergency without specific authority from the Civil Service Commission; for instance they had been granted temporary hiring authority for 2 persons but erroneously hired 3 persons. Under the so-called rollback the third person must be separated from the service despite the fact they had no culpability in the admitted administrative error. In other cases employees were qualified and promoted by the agencies in good faith and have satisfactorily performed the duties of thier new positions for several years. However, the Inspection Service of the Commission or the agency itself suddenly discovers that at the time of promotion the employee did not completely qualify and therefore under the rollback policy must be pushed back to where he was prior to said promotion and in addition he must be kept at that position for a given penalty period (usually 1 year) again despite the fact that he merely submitted his qualifications and had no part in promoting himself. Moreover, he was qualified by an agency official who was and still is the authorized representative of the Civil Service Commission. There is no allegation of bad faith, fraud, or political pressure by the employee or the agency, yet the Commission usually directs corrective action at the expense of the employee.

We understand the motives of the Commission are to prevent recurrence of similar action by the agencies and thus protect the merit system.

We heartily endorse their motives but feel the employee should not be the scapegoat for administrative errors made under emergency conditions.

We therefore respectfully urge the committee to give favorable and expeditious consideration to H. R. 3255 and to develop solutions to problems related to the above general conditions.

F. C. Scharff,
President, AFGE Lodge 1560.

Mr. Davis. The subcommittee will stand adjourned until call of the Chair.

(Subcommittee adjourned at 11:45 a. m.)

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LEGISLATIVE HISTORY

Public Law 594
H.R. 3255

TABLE OF CONTENTS

INDEX AND SUMMARY OF H. R. 3255

Jan. 27, 1955	Rep. Lesinski introduced H. R. 3255 which was referred to House Post Office and Civil Service Committee. Print of bill as introduced.
July 27, 1955	House committee ordered H. R. 3255 reported.
July 28, 1955	House committee reported without amendment H. R. 3255. House Report No. 1557. Print of bill and report.
July 30, 1955	House passed H. R. 3255 without amendment.
Aug. 2, 1955	H. R. 3255 was referred to the Senate Committee on Post Office and Civil Service. Print of bill as referred.
May 22, 1956	Senate committee reported H. R. 3255 without amendment. Senate Report No. 2035. Print of bill and report.
June 4, 1956	Senate passed H. R. 3255 without amendment.
June 18, 1956	Approved: Public Law 594, 84th Cong.

Hearings: House Post Office and Civil Service Committee on H. R. 3255, 3085 and 5887.

DIGEST OF PUBLIC LAW 594

AMENDMENT OF CLASSIFICATION ACT OF 1949. Preserves under certain conditions the basic pay of classified employees (except for grades GS-16, 17, and 18) whose positions are reclassified, or have been reclassified since July 1, 1954, to a lower grade.

H. R. 3255

84TH CONGRESS
1ST SESSION

H. R. 3255

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1955

Mr. LESINSKI introduced the following bill: which was referred to the Committee on Post Office and Civil Service

A BILL

To amend the Classification Act of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Classification Act of 1949 is amended by adding at the end of section 605 a new section as follows:

"SEC. 606. Employees occupying positions under this Act which have been placed in any of the classification grades in accordance with section 502 (a), and who have been performing the duties of such position satisfactorily for a period of two years, and who thereafter are reduced from such grades, by reason of the reallocation of their respective positions to lower grades, shall continue to receive the rates of

basic compensation appropriate to the grade from which reduced so long as they remain in the same respective positions; but when any such position becomes vacant the rate of basic compensation of any subsequent appointee shall be fixed in accordance with this Act at the rate fixed for such lower grade."

84TH CONGRESS
1ST SESSION

H. R. 3255

A BILL

To amend the Classification Act of 1949.

By Mr. LESINSKI

JANUARY 27, 1955
Referred to the Committee on Post Office and Civil Service

H. R. 3233

A BILL

July 27, 1955

15. MARKETING. The Agriculture Committee reported with amendment S. 1757, providing penalties for violations of grade marking standards of products in interstate commerce under the Agricultural Marketing Act (H. Rept. 1468) (p. 10133).

16. EXTENSION WORK. The Agriculture Committee reported with amendment S. 2098, authorizing appropriations to be used for agricultural extension work for special circumstances in regard to low-income farmers (H. Rept. 1409) (p. 10134).

17. RICE. The Agriculture Committee reported with amendment H. R. 7367, providing that the 1956 national acreage allotment on rice shall be established which is less than 85% of the final allotment established for the immediately preceding year (H. Rept. 1462) (p. 10133).

18. FARM LABOR. Received the conference report on H. R. 3822, which provides a 3½ year extension (until June 30, 1959) of the Mexican farm-labor program, relieves employers of double liability for the cost of returning a worker to Mexico where the employer has paid once for such movement but the Mexican does not return and is later apprehended, and specifies that the Secretary of Labor is to obtain information on the availability of domestic workers, prevailing wage rates, and labor shortages in the area, and then post publicly the number of workers to be imported (H. Rept. 1499) (pp. 10090-1).

19. COMMODITY CREDIT CORPORATION. Received the conference report on H. R. 2851, authorizing the distribution of agricultural commodities owned by the CCC to persons in need in areas of acute distress (H. Rept. 1450) (p. 10091). The bill authorizes the Secretary of Agriculture, until June 30, 1957, upon request of a State Governor, to distribute to a central point in the State concerned, wheat flour and corn meal owned by the CCC using Sec. 32 funds limited to $15 million a year.

20. WATER RESOURCES. Received the conference report on H. R. 3990, to authorize the Secretary of the Interior to investigate and report to the Congress on projects for the conservation, development, and utilization of the water resources of Alaska (H. Rept. 1447) (p. 10089).

21. ROADS. Rejected, by a vote of 123 to 292, H. R. 7474, the Federal-aid highway construction bill (pp. 10091-10122). The House had previously rejected a motion to recommit the bill by a vote of 193 to 221. The Dondero substitute, to enact the President's road program, was rejected by a vote of 178 to 184. During the debate on the bill, Rep. Gavin criticized the farm leaders of the House on their concept of "fiscal responsibility" in regard to farm subsidies and price supports. Rep. Jones, Ala., offered an amendment which was accepted, preventing the use of highway construction funds to reimburse utilities for relocation of their lines when in conflict with the construction program; and during debate on this amendment there was discussion of the extent to which it would have benefited REA cooperatives.

22. FOREIGN AID. Received the conference report on H. R. 7224, the mutual security appropriation bill (H. Rept. 1501) (pp. 10122-3).

23. DEFENSE PRODUCTION. The Rules Committee reported a resolution for the consideration of H. R. 7470, to amend the Defense Production Act (p. 10124).

24. FARM-CITY WEEK. A subcommittee of the Judiciary Committee ordered reported to the full committee H. J. Res. 317, designating the last week in October of each year as National Farm-City Week (p. D796).

25. SURPLUS GRAINS. Rep. Reuss criticized the Interior Department for allegedly "winking at duck-baiting violations," and suggested that deteriorated surplus grains owned by the CCC should be used for wildlife feeding purposes (pp. 10128-9).

26. PERSONNEL. The Post Office and Civil Service Committee reported with amendments the following bills: H. R. 7618, to amend Sec. 8 of the Civil Service Retirement Act (H. Rept. 1473); and S. 1849, to provide for the grant of career-conditional and career appointments in the competitive civil service to indefinite employees who previously qualified for competitive appointment (H. Rept. 1498) (pp. 10133-4).

The Post Office and Civil Service Committee ordered reported H. R. 3255, to amend the Classification Act of 1949, to prevent loss of salary after an employee has held a position for more than 2 years (p. D796).

The Post Office and Civil Service Committee announced the appointment of the following investigative subcommittees under authority of H. Res. 304: Subcommittee on Manpower Utilization and Departmental Personnel Management (Rep. Davis, Ga., Chairman), and Subcommittee on Civil Service Commission and Personnel Programs (Rep. Morrison, Chairman) (p. D796).

A subcommittee of the Judiciary Committee ordered reported to the full committee claims of Federal employees for the recovery of fees, salaries, or compensation (p. D796).

27. PROPERTY. The Government Operations Committee reported without amendment H.R. 6182, to make temporary provision for making payments in lieu of taxes with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments (H. Rept. 1453) (p. 10132).

The Government Operations Committee reported with amendment H. R. 7227, to authorize the disposal of surplus property for civil defense purposes, and to provide that certain Federal surplus property be disposed of to State and local civil defense organizations which are established by or pursuant to State law (H. Rept. 1455) (p. 10133).

28. MINIMUM WAGE. The conferees on S. 2168, to amend the Fair Labor Standards Act of 1938 so as to provide for an increase to $1 of the minimum wage provisions, agreed to file a conference report (p. D797).

29. RECLAMATION; ELECTRIFICATION. The Public Works Committee reported with amendment H. R. 7195, to provide for the reconveyance of lands in certain reservoir projects in Texas to the former owners (H. Rept. 1461) (p. 10133).

The Interior and Insular Affairs Committee reported without amendment H.R. 1603, to terminate the prohibition against employment of Mongolian labor in the construction of reclamation projects (H. Rept. 1502) (p. 10134).

The Aspinall subcommittee of the Interior and Insular Affairs Committee approved for reporting to the full committee H. R. 4719, to authorize construction and maintenance of the Hells Canyon Dam (p. D795).

30. MINERALS. The Interior and Insular Affairs Committee reported with amendments H. R. 6994, to provide for entry and location, on discovery of a valuable source material upon public lands of the U. S. classified as or known to be valuable for coal (H. Rept. 1478) (p. 10133).

31. LEGISLATIVE PROGRAM. The Majority Leader scheduled consideration of H. R. 6455, the natural gas bill, for July 28. When questioned about House adjournment, the Majority Leader replied, "I would say we can reasonably expect to do so (adjourn) by next Tuesday or Wednesday. That would be my best guess." (p. 10124.)

July 28, 1955

14. MINERALS. Passed as reported H. R. 100, to permit the mining development and utilization of mineral resources of all public lands withdrawn or reserved for power development (pp. 10193, 10216-7).

15. RECLAMATION; IRRIGATION. Passed with amendments H. R. 5881, to supplement the Federal reclamation laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects. The amendments consisted of inserting the language of S. 2142 for that of the House bill. Senate conferees were appointed. (pp. 10207-15.)

Passed over, at the request of Sen. Bible, H. R. 4663, to authorize the construction of the Trinity River division, Central Valley project (p. 10194).

Passed as reported S. 1818, to limit the amount of land on Federal irrigation projects which may be exchanged under the act of August 13, 1953 (pp. 10194-5).

Sens. Morse and Neuberger inserted various articles and letters supporting the high dam project for the Hells Canyon Dam project (pp. 10206-7, 10221-3).

16. WATER COMPACTS. Passed without amendment H. R. 3587, authorizing the negotiation of compact by Calif. and Ariz. relative to the waters of the Klamath River (p. 10196).

17. FAO. Passed over, at the request of Sen. Ellender, S. J. Res. 97, to increase the limitation on the U. S. contribution to the Food and Agriculture Organization (p. 10196).

18. ROADS. Sen. Kuchel expressed his regret that Congress did not enact a Federal-aid highway construction bill this session.

19. WHEAT. Sen. Flanders suggested dropping bags of wheat on the Chinese mainland to alleviate the famine and influence the approaching diplomatic negotiations (pp. 10152-3).

20. EXPENDITURES. Sen. Payne commended the recent report on Government expenditures prepared by Sen. Byrd (pp. 10145-6).

21. HEALTH. Sen. Wiley inserted reports of the Public Health Service and private groups on the problem of health in the rural areas and efforts made to provide better health services (pp. 10153-6).

22. STRATEGIC MATERIALS. Sen. Malone submitted a report on the accessibility of strategic and critical materials to the United States in time of war and for our expanding economy. The report describes the economic structure of the 24 nations of the Western Hemisphere and the investment climate within those countries (S. Doc. 83)(p. 10183).

23. NOMINATIONS. Confirmed the nomination of Francis Wilcox as Assistant Secretary of State (pp. 10180-2).

24. LEGISLATIVE PROGRAM. The Majority Leader scheduled for consideration Fri., July 29, the following measures: H. R. 6373, to amend the Domestic Minerals Program Extension Act of 1953 (which was made the unfinished business); H. R. 4663, to authorize the construction of the Trinity River division, Central Valley Reclamation project; S. J. Res. 97, to increase U. S. contribution to the FAO; and S. 2402, to amend sec. 8 of the Civil Service Retirement Act of May 29, 1930 (pp. 10221, 10195, 10219).

HOUSE

25. FARM-CITY WEEK. The Judiciary Committee reported with amendment H. J. Res. 317, designating the last week in October of each year as National Farm-City Week (H. Rept. 1551) (p. 10334).

26. CCC. The Banking and Currency Committee reported without amendment H. R. 7541, to increase the borrowing power of the CCC from $10 billion to $12 billion (H. Rept. 1559) (p. 10334).

27. SUGAR. The Rules Committee reported a resolution providing for consideration of H. R. 7030, to amend and extend the Sugar Act of 1948 (p. 10325).

28. HOUSING. The Rules Committee reported a resolution providing for consideration of S. 2126, the housing bill (p. 10322).

29. FOREIGN AID. Both Houses agreed to the conference report on H. R. 7224, the mutual security appropriation bill for 1956, and acted on amendments in disagreement (pp. 10167-73, 10241-2). This bill will now be sent to the President.

30. TRADE AGREEMENTS. Both Houses received a Tariff Commission report on the operation of the trade agreements program, July 1953 to June 1954; to S. Finance and H. Ways and Means Committees (pp. 10137, 10334).

31. MINIMUM WAGE. Received the conference report on S. 2168, to amend the Fair Labor Standards Act of 1938 so as to provide for an increase to $1 in the minimum wage provisions (H. Rept. 1561) (pp. 10320-1).

32. PERSONNEL. The Post Office and Civil Service Committee reported without amendment H. R. 3255, to amend the Classification Act of 1949 so as to provide protection for Government officers and employees from loss of basic compensation resulting from reclassification of their positions (H. Rept. 1557) (p. 10334).

33. FARM INCOME. Rep. Deane discussed possibilities for increasing per capita farm income in N. C. and offered suggestions for agricultural development in that State (pp. 10328-32).

34. EMPLOYEE BONDING. Received the conference report on H. R. 4778, to provide for the purchase of bonds to cover officers and employees of the Government (pp. 10322-5). The House conferees included the following in their statement:

"The conference substitute provides, in general, (1) for the mandatory purchase of surety bonds to cover civilian officers and employees and military personnel of each department and independent establishment in the executive branch ... who are required to be bonded by law or by administrative decision, and (2) for the discretionary purchase of surety bonds to cover those officers and employees in the legislative and judicial branches of the Federal Government with respect to whom the appropriate officials of the legislative and judicial branches deem it advisable to require the purchase of surety bonds.

"With respect to the executive branch, the conference substitute provides that the head of each department and independent establishment shall obtain and procure blanket, position schedule, or other types of surety bonds to cover those civilian officers and employees and military personnel of such department or establishment who are required, by law or administrative ruling to be bonded. It is required that such bonds shall be obtained and procured

84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1557

PROTECTION FOR GOVERNMENT OFFICERS AND EMPLOYEES FROM LOSS OF BASIC COMPENSATION RESULTING FROM RECLASSIFICATION OF THEIR POSITIONS

JULY 28, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAVIS of Georgia, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 3255]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 3255) to amend the Classification Act of 1949, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

COMMITTEE AMENDMENTS

The committee amended the introduced bill in two respects:

First, the committee amended the text of the bill by striking out all after the enacting clause and inserting in lieu thereof a new text which appears in the reported bill in italic type.

Second, the committee amended the title of the bill in order to indicate more accurately the contents of the text of the bill as amended by the committee.

STATEMENT

The purpose of the bill, as amended by the committee, is to provide protection against loss of basic compensation for certain officers and employees of the Federal Government and the municipal government of the District of Columbia holding positions subject to the Classification Act of 1949 which have been in the past, or will be in the future, placed in lower grades of any compensation schedule of such act pursuant to reclassification actions taken thereunder.

The bill in its reported form adds a new section 507 to title V of the Classification Act of 1949.

Subsection (a) of such new section 507 covers the case of an officer or employee subject to the Classification Act of 1949 who holds (on

or after the date of enactment of the new sec. 507) a position which is in certain of the grades of any basic compensation schedule contained in the Classification Act of 1949 and which is placed (on or after the date of enactment of the new sec. 507) in a lower grade of such basic compensation schedule pursuant to any reclassification of such position under authority of such act. Such subsection (*a*) provides that, notwithstanding such reclassification of his position, such officer or employee shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification until he leaves such position or until he is entitled to receive basic compensation at a higher rate by reason of the operation of the provisions of the Classification Act of 1949. However, if and when such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to fill the vacancy in such position shall be fixed and adjusted in accordance with the Classification Act of 1949 generally.

Subsection (b) of the new section 507 covers the case of any officer or employee subject to the Classification Act of 1949 who held continuously, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of section 507, a position which was in certain of the grades of any basic compensation schedule contained in the Classification Act of 1949, which was placed, at any time during such period, in a lower grade of such basic compensation schedule pursuant to one or more reclassifications of such positions under authority of such act, and which, on the date of enactment of the new section 507, is subject to such act.

Such subsection (b) provides that, notwithstanding such reclassification of his position, such officer or employee shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of section 507 (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassification of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclassifications) until one of the following circumstances occurs: (1) He leaves such position; or (2) he is entitled to receive basic compensation at a higher rate by reason of the operation of the provisions of the Classification Act of 1949. However, if and when such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to fill the vacancy in such position shall be fixed and adjusted in accordance with the Classification Act of 1949 generally.

Subsection (b) of the new section 507 also provides that no officer or employee shall be entitled, by reason of such subsection (b), to basic compensation for any period prior to the first day of the first pay period which begins after the date of enactment of such section 507.

It should be observed—

(1) that subsections (a) and (b) of the new section 507 do not apply with respect to grades 16, 17, and 18 of the general schedule—the so-called supergrades;

(2) that such subsections (a) and (b) apply only with respect to officers and employees holding positions under career-conditional and career appointments in the classified (competitive) civil service of the United States;

(3) that such subsections (a) and (b) will not operate to protect the rate of basic compensation of an officer or employee unless he, in fact, is or was holding the position concerned at the time of the reclassification of such position to a lower grade and, in the case of an officer or employee covered by subsection (b), immediately prior to the date of enactment of such subsections;

(4) that such subsections (a) and (b) provide that such officer or employee shall have held such position for a continuous period of not less than 2 years ending, in the case of an officer or employee covered by subsection (a), immediately prior to such reclassification and, in the case of an officer or employee covered by subsection (b), immediately prior to the date of enactment of such subsections;

(5) that such subsections (a) and (b) require that such officer or employee shall have performed the work—that is, the duties and responsibilities—of the position concerned in a manner which is satisfactory or better than satisfactory; and

(6) that, under subsections (a) and (b), an officer or employee, whose rate of basic compensation is protected by reason of such subsections, shall not be eligible to receive any within-grade or longevity step increases under the Classification Act of 1949 so long as the protection of such subsections (a) and (b) apply to his rate of basic compensation. However, from and after the time when the rate of basic compensation of the officer or employee is no longer protected by reason of such subsections (for example, because he is appointed to another position in the same or another grade under the Classification Act of 1949), such officer or employee again shall be eligible to receive within-grade and longevity step increases.

An officer or employee whose rate of basic compensation is protected by reason of subsection (a) or (b) of the new section 507 shall not be eligible to receive any retroactive payment of compensation by reason of the enactment of such subsections.

The committee has considered the regulations issued by the Civil Service Commission effective July 23, 1955, and printed in the Federal Register for that date (pp. 5281-5283) which, the Commission has reported, are intended to protect Government officers and employees against loss of salary when their positions are reclassified downward. The committee deems such regulations inadequate to afford such officers and employees the necessary measure of protection, since they do not cover all such officers and employees who are entitled to this protection and would provide only temporary "savings" of compensation in any event. In the judgment of the committee, enactment of this legislation is essential to correct existing inequities in the form of reduced compensation, and to prevent such inequities in the future, arising from reclassification downward of positions held by employees who have served satisfactorily in such positions for periods of 2 years or more.

The report of the Civil Service Commission on H. R. 3255 and two similar bills follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., June 13, 1955.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington 25, D. C.

DEAR MR. MURRAY: This is in reply to your letters of February 5, 1955, asking for the Commission's comments on H. R. 3085 and H. R. 3255, similar bills, to amend the Classification Act of 1949.

These bills would add a new section to title VI of the Classification Act of 1949, as amended. The new section would provide that employees occupying positions under the Classification Act which have been placed in a classification grade by the department in accordance with section 502 (a) of the act, and who have been performing the duties of their positions satisfactorily for a period of 2 years (H. R. 3085 prescribes a period of more than 2 years) and who thereafter are reduced from such grades by reason of the reallocation of their respective positions to lower grades, shall continue to receive the rates of compensation appropriate to the grade from which reduced. Both bills, H. R. 3085 through specific provision and H. R. 3255 through implication, would make the employees eligible to receive periodic and longevity step increases of such grade so long as they remain in the same positions. When any such position becomes vacant, the rate of basic compensation of any subsequent appointee would be fixed, in accordance with the Classification Act, at a rate fixed for the lower grade.

The Commission has made an extensive study of the problem of adjusting the pay of employees whose positions are downgraded. We are very much aware of the questions of equity and the difficulties of personal readjustment which arise from these grade reductions where a loss in pay is involved. On the basis of our study, we have concluded that we can take care of the problem within the normal administrative authority which the Commission has under the Classification Act. We are, therefore, considering the issuance of regulations which will reduce the hardships imposed upon employees under such circumstances. We believe that this approach will provide a more satisfactory solution than would result from enactment of H. R. 3085 or H. R. 3255; and accordingly, we recommend against their enactment.

The plan which the Commission is considering will permit a temporary period of salary retention for employees who are downgraded so as to allow ample time for possible reassignments and, if necessary, for personal readjustment. It may be applied not only to the employee who is changed to a lower grade due to the reallocation of his position but also to any other employee who is reduced in grade through no fault of his own with the exception of the employee whose downgrading is due to a reduction in force. The length of the period during which an existing salary rate may be retained will be geared to the length of the employee's service in the grade from which he is reduced. In this way the impact of the reduction will be minimized and longer service at the higher grade will be recognized. By permitting temporary salary retention for a wider variety of downgrading actions, lasting pay misalinement will be avoided, differences in treatment among employees who are reduced in grade will be minimized, and difficult administrative decisions will be eliminated.

We wish to explain why, in contrast, the salary retention provisions of H. R. 3085 and H. R. 3255 would cause unfair differences in the treatment of employees both as a direct result of the salary retention plan and as a result of the serious administrative difficulties which would be encountered in carrying out the plan.

These bills would provide salary retention for employees whose positions are regraded but not for other employees who are changed to lower grade. This would result in differences in treatment among employees which would be difficult to defend. Let us assume that there are two employees in an office occupying different GS–4 positions. One is performing typing and miscellaneous clerical work. The other is composing correspondence. Upon audit it is determined that the position of the former should properly be placed in grade GS–3. The employee's duties have not changed so upon being downgraded his salary is retained even though it is in excess of the maximum rate for the grade. The other employee's position is determined to be properly evaluated at GS–4. A month later the mission of the office is changed so that the need for the composition of correspondence is eliminated. The second employee is now assigned to duties identical with those performed by the first. This time, however, the change to lower grade is accompanied by a change in duties. Pay may not be saved above the rate range. This employee's pay then must be reduced at least to the maximum scheduled rate of GS–3. This would be true even though his salary in

GS–4 may have been higher than that enjoyed by the first employee and even though he may have been assigned to the correspondence work because he was considered the more able of the two. This is the type of practical problem in pay equity which results when salary retention is permitted in some downgrading actions but not in others. The action the Commission proposes to take administratively will cause some problems of this sort but we believe they will not be nearly so numerous as those which would be caused by H. R. 3085 and H. R. 3255.

Particularly undesirable in these bills is the feature which makes an employee whose pay has been preserved upon downgrading eligible for step increases in the higher grade. Saving the existing rate alone creates a lasting misalinement between the pay of the employee who is downgraded and that of others doing comparable work. The requirement that the employee be advanced through the steps of the higher grade, including the longevity steps, insures that the pay misalinement will become progressively worse.

These bills would not permit salary retention in cases of changes to lower grade which are accompanied by a material change in duties. The difficulty of determining whether there has or has not been a change in duties introduces a serious source of inequitable treatment of employees. Reliance has to be placed in the written record in making this determination although in some cases the record may show a change where there has, in fact, been none. For example, an employee occupies a position which has five important duties. The position is described showing, through misunderstanding, these five duties and a sixth duty. This sixth duty is grade controlling. The employee never performs this sixth duty. Two years later he is reduced in grade upon postaudit, either by the department or the Commission, because he does not perform the sixth duty. On the basis of the written record it is concluded that he is changed to lower grade because his duties have changed. He may contend, and rightly, that his duties have not changed. He will certainly feel that he has been unjustly treated if some other employee who is downgraded is allowed to retain his salary because it is decided there has, in his case, been no change in duties. This example makes the injustice obvious. In practice, varying degrees and types of differences can be found between the official description and the duties that the employee is found to be doing upon audit. Any effort to go behind the written record which may be several years old would involve elaborate investigations which in many cases we believe would prove fruitless.

To the difficulty of telling whether there has been a change in duties we must add the difficulty of telling what change is to be considered material or significant. Are changes in level of difficulty alone to be considered material and if so, only those changes which would make a full grade level difference in the position? How about changes in line of work? How about changes from one set of duties to another in the same line of work and at the same level of difficulty? There are differences of degree in all these possible changes which make consistent decisions difficult.

The provision of these bills which would require that an employee occupy the same position for 2 years prior to the date of the down-grading in order to be eligible for salary retention constitutes a special source of inequitable treatment for employees. The employee with long service in a high grade who is changed to the position which is to be regraded, perhaps due to a reorganization, a year before the regrading action may not have his pay saved while less deserving employees who have 2 years' service in the particular position must have their pay saved.

The mandatory feature of these bills is undesirable. It leaves departments with no opportunity to avoid what may be recognized as glaring inequities in pay alinement. By giving the employee a statutory right to the rates of the higher grade, it opens the door to time-consuming litigation over questions of personnel administration.

We believe that the salary retention regulations which we are considering will avoid many of these problems. Since it will provide for temporary pay saving for a period based upon the employee's length of service in the higher grade, it will not create lasting pay misalinement among employees doing comparable work. Because it will apply to a wider range of downgrading actions there will be markedly fewer questionable differences in treatment among employees whose grades are reduced. It will recognize service by means of varying the period of salary retention, and as a result will avoid arbitrary qualifying periods such as the 2-year period in the same position required by these bills. In the light of the advantages of the proposed administrative action and in the light of the

serious difficulties which we believe would arise under the bills, we recommend, as stated above, against enactment of H. R. 3085 and H. R. 3255.

We have been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

By direction of the Commission.

Sincerely yours,

PHILIP YOUNG, *Chairman.*

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CLASSIFICATION ACT OF 1949

TITLE VI—BASIC COMPENSATION SCHEDULES

* * * * * * *

SEC. 605. Any increase in rate of basic compensation by reason of the enactment of this title shall not be regarded as an "equivalent increase" in compensation within the meaning of section 701.

SEC. 606. Employees occupying positions under this Act which have been placed in any of the classification grades in accordance with section 502 (a), and who have been performing the duties of such position satisfactorily for a period of two years, and who thereafter are reduced from such grades, by reason of the reallocation of their respective positions to lower grades, shall continue to receive the rates of basic compensation appropriate to the grade from which reduced so long as they remain in the same respective positions; but when any such position becomes vacant the rate of basic compensation of any subsequent appointee shall be fixed in accordance with this Act at the rate fixed for such lower grade.

○

Union Calendar No. 522

84TH CONGRESS
1ST SESSION

H. R. 3255

[Report No. 1557]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1955

Mr. LESINSKI introduced the following bill; which was referred to the Committee on Post Office and Civil Service

JULY 28, 1955

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Classification Act of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That the Classification Act of 1949 is amended by adding at the end of section 605 a new section as follows:~~

~~"SEC. 606. Employees occupying positions under this Act which have been placed in any of the classification grades in accordance with section 502 (a), and who have been performing the duties of such position satisfactorily for a period of two years, and who thereafter are reduced from such grades, by reason of the reallocation of their respective positions to lower grades, shall continue to receive the rates of~~

~~basic compensation appropriate to the grade from which reduced so long as they remain in the same respective positions; but when any such position becomes vacant the rate of basic compensation of any subsequent appointee shall be fixed in accordance with this Act at the rate fixed for such lower grade."~~

That title V of the Classification Act of 1949, as amended, is amended by adding at the end thereof the following new section:

"SEC. 507. (a) Each officer or employee subject to this Act—

"(1) who holds, on or after the date of enactment of this section, under a career-conditional or career appointment in the competitive civil service, a position (A) which is in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which is placed, on or after such date of enactment, while such officer or employee holds such position, in a lower grade of such schedule under any reclassification of such position pursuant to this Act;

"(2) who has held such position for a continuous period of not less than two years ending immediately prior to the date of such reclassification; and

"(3) whose performance of the work of such posi-

tion at all times during such period is satisfactory or better than satisfactory;

shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification of his position (including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position) until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act.

"(b) Each officer or employee subject to this Act—

"(1) who, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of this section continuously held a position (A) which was in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which was placed, at any time during such period, in a lower grade of such schedule under one or more reclassifications of such position pursuant to this Act;

"(2) who holds such position on the date of enactment of this section;

"(3) who has held such position for a continuous

period of not less than two years ending immediately prior to the date of enactment of this section; and

"(4) whose performance of the work of such position at all times during such period of two years specified in paragraph (3) of this subsection and also on the date of enactment of this section was satisfactory or better than satisfactory,

shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of this section (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassification of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclassifications) , including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position, until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act: but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act. No officer or employee shall be entitled by reason of this subsection to basic compensation for any period prior to

the first day of the first pay period which begins after the date of enactment of this section."

Amend the title so as to read: "A bill to amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act, and for other purposes."

Union Calendar No. 522

84TH CONGRESS
1ST SESSION

H. R. 3255

[Report No. 1557]

A BILL

To amend the Classification Act of 1949.

By Mr. LESINSKI

JANUARY 27, 1955

Referred to the Committee on Post Office and Civil Service

JULY 28, 1955

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

H. R. 3255

A BILL

58. MINIMUM WAGE. Agreed to the conference report on S. 2168, to increase the minimum wage, under the Fair Labor Standards Act, to $1 per hour, effective Mar. 1, 1956 (p. 10559). This bill will now be sent to the President.

59. FORESTRY. Passed without amendment S. 72, to give national forest status to certain lands in Lincoln National Forest, N. Mex. (pp. 10585, 10671). This bill will now be sent to the President.

Passed without amendment H. R. 374, to authorize the adjustment and clarification of ownership of certain lands within the Stanislaus National Forest, Calif. (pp. 10585-6).

Passed with amendments H. R. 426, to authorize this Department to set aside areas of not over 640 acres, in national forests or title 3 Bankhead-Jones lands, for division into lots and sale as townsites (p. 10586).

Passed as reported H. R. 1855, to authorize the Secretary of Agriculture to advance Federal funds in the furtherance of cooperative forestry research projects (p. 10587).

60. LAND TRANSFER. Passed without amendment H. J. Res. 112, to release the reversionary right to improvements on a tract of former Rural Rehabilitation Corp. land in Orangeburg, S. C. (pp. 10589-90).

61. TOBACCO. Passed without amendment S. 2297, to amend the law regarding tobacco marketing quotas and referendums, including a provision to permit a referendum to be conducted on the single question of marketing quotas for 3 years (instead of on 3 years and 1 year, as at present)(pp. 10596-7). This bill will now be sent to the President.

H. R. 6846 and 6847, to make other amendments to this legislation, were discussed and passed over at the requests of Reps. Deane and Burnside, respectively (p. 10596).

62. RICE. Passed without amendment H. R. 7302, to prevent persons from moving from one State to another and taking their rice allotments with them (p. 10597).

Passed without amendment S. 2511, to provide that for 1956 no national rice acreage allotment shall be established which is less than 85% of the final allotment established for the immediately preceding year (pp. 10606-7). This bill will now be sent to the President.

63. FARM LABOR. Passed as reported H. R. 6888, to facilitate the entry of skilled sheepherders chargeable to the immigration quota for Spain (pp. 10597-8).

64. EDUCATION. Passed as reported H. R. 7245, to amend and extend the program for Federalaid to school districts in areas affected by Federal activities (pp. 10604-5).

Passed without amendment S. 2081, to amend the Veterans' Readjustment Assistance Act of 1952 to provide that education and training allowances paid to veterans pursuing institutional on-farm training shall not be reduced for 12 months after they have begun their training (pp. 10656-7). This bill will now be sent to the President.

65. BONDING EMPLOYEES. Agreed to the conference report on H. R. 4778, to provide for the purchase of bonds to cover Government employees (p. 10655). This bill will now be sent to the President.

66. PUBLIC LANDS; MINING. Received the conference report on H. R. 100, permitting the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development (pp. 10674-5). The Senate agreed to the conference report on this bill (pp 10775).

67. BUILDINGS. Passed without amendment S. 1210, to amend the Public Buildings Act of 1949 so as to provide a 5-year limitation on the period of leases of space for Federal agencies in D. C. (p. 10594). This bill will now be sent to the President.

68. WATER COMPACT. Passed without amendment S. 1391, consenting to a compact between Calif. and Nev. regarding waters of Truckee, Carson, and Walker Rivers and Lake Tahoe (pp. 10583-4). This bill will now be sent to the President.

69. PERSONNEL. Passed as reported H. R. 7619, to adjust pay rates of department heads and other major officials (pp. 10662-6). For provisions of bill, see Digest 128.

Passed as reported S. 1041, providing for inclusion of certain cooperative State service in the authorized coverage of the Civil Service Retirement Act (pp. 10581-2). For provisions of bill, see Digest 110.

Passed as reported S. 1792, to amend the Federal Employees Group Life Insurance Act of 1954 so as to authorize the assumption of the insurance obligations of any nonprofit association of Federal employees (p. 10582). For provisions of bill, see Digest 110.

Passed as reported H. R. 2383, to authorize an Inventive Contributions Awards Board in the Defense Department (pp. 10602-4).

Passed without amendment H. R. 3255, to amend the Classification Act of 1949 to preserve in certain cases the rates of basic pay of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act (pp. 10657-8).

Discussed and, at the requests of Reps. Vanik and Hagen, passed over H. R. 3084, to amend legislation regarding prevention of political activities so as to include State officers and employees (pp. 10604, 10655).

70. RECLAMATION. Passed without amendment H. R. 1603, to terminate the prohibition against employment of Mongolian labor in the construction of reclamation projects (p. 10613).

71. PUBLIC LANDS. Passed with amendments H. R. 6994, to provide for entry and location, on discovery of a valuable source material, upon public lands classified as or known to be valuable for coal (pp. 10608-9).

72. ANIMAL DISEASES. Discussed and, at the request of Rep. Hoffman, Mich., passed over S. 1166, to restore, on a modified basis, the authority of this Department to restrict the entry of cattle and poultry into the Virgin Islands (p.10594).

73. CCC STOCKS. On objection of Rep. Saylor, passed over H. R. 7252, to permit the sale of CCC stocks of basic and storable non-basic agricultural commodities without restriction where similar commodities are exported in raw or processed form (p. 10592).

74. SUBMARGINAL LANDS. At the request of Rep. Cunningham, passed over H. R. 6815, to provide for sale of certain title 3 Bankhead-Jones lands (p. 10594).

75. WILDLIFE CONSERVATION. Discussed and, on objection of Rep. Taber, passed over S. 756, to authorize the appropriation of accumulated receipts in the Federal-aid wildlife-conservation fund (p. 10654).

76. ADJOURNED until Mon., Aug. 1 (p. 10676).

77. LEGISLATIVE PROGRAM. Majority Leader McCormack announced the following among the bills to be considered Mon.: H. R. 7541, increase in CCC borrowing power;

months to permit the veteran trainee to harvest a crop and get his money. The present law requires reductions in allowances 4 months after the start of the training program, with further cuts at 4-month intervals thereafter.

I am sure many of my colleagues who have farming backgrounds, as I have, know that the present law is out of kilter and does not fit into the crop and harvest cycle these farm trainees are dependent upon for a livelihood and for the care of their families.

This legislation will benefit many thousands of veterans now practically barred from training as well as those already enrolled. It will accomplish this at a very modest increase in cost. It is good legislation and I feel sure you will approve it and merit the thanks of the coming farming generation.

Mrs. ROGERS of Massachusetts. Mr. Speaker, this bill was unanimously reported out of the committee. We felt that there never should have been a reduction after the first month.

I think no Member of the House will object to the bill, as it is a very just one.

The SPEAKER. The question is on the motion of the gentleman from Texas that the rules be suspended and the bill be passed.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

By unanimous consent, a similar House bill (H. R. 4006) and House Resolution 313 were laid on the table.

GENERAL LEAVE TO EXTEND

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to extend their remarks on this bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING THE CLASSIFICATION ACT OF 1949

Mr. MURRAY of Tennessee. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 3255) to amend the Classification Act of 1949, as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That title V of the Classification Act of 1949, as amended, is amended by adding at the end thereof the following new section:

"SEC. 507. (a) Each officer or employee subject to this act—

"(1) who holds, on or after the date of enactment of this section, under a career-conditional or career appointment in the competitive civil service, a position (A) which is in any grade of a basic compensation schedule of this act (other than grade 16, 17, or 18 of the General Schedule) and (B) which is placed, on or after such date of enactment, while such officer or employee holds such position, in a lower grade of such schedule under any reclassification of such position pursuant to this act;

"(2) who has held such position for a continuous period of not less than 2 years ending immediately prior to the date of such reclassification; and

"(3) whose performance of the work of such position at all times during such period is satisfactory or better than satisfactory; shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification of his position (including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position) until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this act.

"(b) Each officer or employee subject to this act—

"(1) who, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of this section continuously held a position (A) which was in any grade of a basic compensation schedule of this act (other than grade 16, 17, or 18 of the General Schedule) and (B) which was placed, at any time during such period, in a lower grade of such schedule under one or more reclassifications of such position pursuant to this act;

"(2) who holds such position on the date of enactment of this section;

"(3) who has held such position for a continuous period of not less than 2 years ending immediately prior to the date of enactment of this section; and

"(4) whose performance of the work of such position at all times during such period of 2 years specified in paragraph (3) of this subsection and also on the date of enactment of this section was satisfactory or better than satisfactory, shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of this section (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassification of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclassifications), including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position, until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this act. No officer or employee shall be entitled by reason of this subsection to basic compensation for any period prior to the first day of the first pay period which begins after the date of enactment of this section."

The SPEAKER. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURRAY of Tennessee. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. LESINSKI].

Mr. LESINSKI. Mr. Speaker, this legislation provides generally that any classified employee who has performed 2 years or more of satisfactory service in his position will continue to receive his same salary if his position is placed in a lower grade under the reclassification provisions of that act.

This legislation will apply to classified employees on the rolls on date of enactment whose positions were downgraded between July 1, 1954, and date of enactment, as well as to any classified employee whose position is downgraded later, provided the other tests are met.

This "salary savings" protection will extend to the employee until he leaves the position or becomes entitled to a higher salary by operation of law. When he vacates the position, any subsequent appointee will receive the salary of the position in the lower grade to which the position has been reclassified.

There will be no retroactive payment of compensation under this legislation. Nor will an employee whose salary is protected when his position is reduced to a lower grade receive any step increases in the grade from which the position was reduced.

According to the Civil Service Commission, approximately 11,000 positions have been reduced in grade under the Classification Act, but a proportion of the incumbents suffered no loss in salary due to, first, being eligible for the same or slightly higher rates in the lower grades; or, second, transfers to other positions at their old grade. However, witnesses testified before our committee that several thousand employees have suffered salary losses ranging from $100 to $500—and in some instances more—a year. The Civil Service Commission has issued regulations designed to partially remedy this situation. In the judgment of the committee these regulations are inadequate; they provide only partial and temporary relief.

This legislation is essential to correct existing inequities and to prevent further inequities in the future. Our committee unanimously approved this bill, and I earnestly hope that, in justice to our Federal employees who through no fault of their own have suffered substantial salary losses, it will be approved by this House.

Mr. BECKER. Mr. Speaker, I desire wholeheartedly to join with my colleague in support of H. R. 3255. This is the same bill that I introduced in the 83d Congress and again this year. This bill will correct one of the greatest injustices to Federal employees. It will not only correct the injustices, but it will also prevent a great deal of distress amongst the lower grade of classified employees. It is true that the Civil Service Commission audit the job classifications, however, a much shorter period of time should be required. There is no reason why a person classified and put to work and remains in that position for a period of 2 years, should not be able to feel secure. American citizens in every walk of life have a right to antiicipate that when properly performing the functions assigned to them faithfully and well, but that they can look forward to the upward steps to higher grades.

I am certain that the Members of Congress, after this bill passes, can go home feeling somewhat happier by this action. This action is long past due, but at least this action prevents further injustice.

I am happy to have participated in the passage of this bill.

The SPEAKER. The Chair understands the gentleman from Iowa does not desire to use time on this bill.

Mr. GROSS. That is right.

The SPEAKER. The question is on the motion of the gentleman from Tennessee that the rules be suspended and the bill be passed.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title of the bill was amended so as to read: "A bill to amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such act, and for other purposes."

SETTLEMENT OF TEXAS CITY, TEX., DISASTER CLAIMS

Mr. LANE. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1077) to provide for settlement of claims for damages resulting from the disaster which occurred at Texas City, Tex., on April 16 and 17, 1947, as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That while denying any equitable or legal responsibility on the part of the United States, but for compassionate reasons, and as a gratuity, it is the intention of the Congress to make payment on behalf of those persons who suffered death, personal injury, and property losses as a result of the explosions and fires at Texas City, Tex., on April 16 and 17, 1947.

SEC. 2. The Secretary of the Army or such persons as he may designate shall investigate and settle claims against the United States for death, personal injury, and property losses proximately resulting from the disaster at Texas City, Tex., on April 16 and 17, 1947, commonly referred to as the Texas City disaster.

SEC. 3. (a) Claimants shall submit their claims in writing to the Secretary of the Army, under such rules as he prescribes, within 180 days after the enactment of this act.

No claim shall be entertained by the Secretary of the Army unless it shall appear to his satisfaction that such claim was a part of a civil action filed against the United States in a United States district court prior to April 25, 1950, except that, for good cause, the Secretary may waive the limitation date of April 25, 1950, where it is shown that claimant, by reason of infancy, insanity, or other legal reason, was unable to bring such civil action.

(b) The Secretary of the Army shall promulgate and publish rules of procedure for handling the claims referred to in section 2 within 60 days after the date of enactment of this act.

He shall determine and fix the amount of awards, if any, in each claim within 12 months from the date on which the claim was submitted.

SEC. 4. Since it is the intention and purpose of this act, and of the Congress, to relieve the claimants hereunder, the Secretary of the Army shall limit himself to the determination of—

(1) whether the losses sustained resulted from the explosions and fires at Texas City on April 16 and 17, 1947;

(2) the amounts to be allowed and paid pursuant to this act; and

(3) the persons entitled to receive the same.

SEC. 5. (a) Claims for awards based on death shall be submitted only by duly authorized legal representatives. No claim under this subsection shall be approved by the Secretary of the Army in amounts in excess of $20,000.

(b) No claim for personal injuries may be approved by the Secretary of the Army in amounts in excess of $20,000.

(c) No claim for property losses may be approved by the Secretary of the Army in amounts in excess of $20,000.

SEC. 6. (a) In determining the amounts to be awarded for death, personal injury, or property losses, the Secretary of the Army shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits), or other payments or settlements of any nature, previously paid with respect to such death claims, personal injury, or property loss.

(b) Payments approved by the Secretary of the Army on death, personal injury, and property loss claims, the same being gratuitous, shall not be subject to insurance subrogation claims in any respect.

(c) The Secretary of the Army shall not include in an award any amount for reimbursement to any insurance company or compensation insurance fund for loss payments made by such company or fund.

(d) No claim cognizable under this act shall be assigned or transferred.

SEC. 7. The Secretary of the Treasury shall pay out of moneys in the Treasury not otherwise appropriated, the claims referred to in this act in the amounts approved for payment by the Secretary of the Army.

SEC. 8. A payment made under the provisions of section 7 shall be in full settlement and discharge of all claims against the Government of the United States.

SEC. 9. The Secretary of the Army shall require assignment to the United States of any right of action against a third party arising from the death, personal injury, or property-loss claim with respect to which settlement is made.

SEC. 10. The Secretary of the Army shall, 24 months after the date of enactment of this act, transmit to the Congress—

(a) a statement of each claim submitted to the Secretary of the Army in accordance with this act which has not been settled by him, with supporting papers and a report of his findings of facts and recommendations; and

(b) a report of each claim settled by him and paid pursuant to this act. The reports shall contain a brief statement concerning the character and justice of each claim, the amount claimed, and the amount approved and paid.

SEC. 11. Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 percent of the amount paid, any contract to the contrary notwithstanding.

Whoever violates the provisions of this act shall be fined a sum not to exceed $5,000.

SEC. 12. If any particular provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act shall not be affected thereby.

The SPEAKER. Is a second demanded?

Mr. MILLER of New York. Mr. Speaker, I demand a second.

Mr. LANE. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill, S. 1077, as amended by the committee, is to compensate to a limited extent those persons, or their survivors, who suffered death, personal injury and property losses as a result of the explosions and fires at Texas City, Tex., on April 16 and 17, 1947, commonly known as the Texas City disaster.

In 1947 a man-made disaster occurred in Texas City, Texas, of almost unbelievable proportions. Loaded bags of ammonium nitrate fertilizer—called Fgan—stowed for overseas shipment in the holds of two ships at the docks in that city blew up. The shipment was destined for France, as part of the United States Government's foreign aid program to help the war-ravaged areas and famine-stricken peoples overseas. Over 570 persons suffered violent death in that disaster, and about 3,500 more were injured and suffered either delayed death or mental and physical anguish attendant upon months of hospital confinement and medical care. In addition, approximately 1,000 residences, industrial plants and other buildings were either totally destroyed, or suffered major structural damage. Damage to these private properties ran into millions of dollars.

After the disaster court actions were instituted in the Federal Courts in Texas under the Tort Claims Act, by some 8,000 claimants.

After a trial of the issues, the lower Federal district court found the Government wholly responsible for this disaster in that the Federal Government negligently produced, shipped, and distributed this inherently dangerous fertilizer which blew up at Texas City. On appeal, however, both the circuit court of appeals and the Supreme Court reversed the decision of the lower district court on the grounds that the Government was performing a discretionary function and that therefore it could not be sued under the Tort Claims Act.

In the 83d Congress our colleague, Congressman CLARK THOMPSON, who represents that particular area of Texas, introduced House Resolution 296, which was adopted by the House and which directed the Judiciary Committee to make a complete investigation and study of the disaster at Texas City.

Accordingly, a special committee was appointed, of which I was a member, and it proceeded to Galveston and Texas City, where 3 days of hearings were held. The members of the special committee not only heard some of the claimants and their lawyers, but we examined the devastation caused by the explosions, which virtually leveled the city of Texas City, Tex. In addition, we met and talked with the people who suffered serious injury, some of whom suffered the loss of an arm or a leg. The committee could not help but be deeply impressed by the stories of hardship and sorrow which these people suffered, and it is most important to note, and I therefore wish to deeply impress upon the minds

H. R. 3255

84TH CONGRESS
1ST SESSION

H. R. 3255

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1955

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Classification Act of 1949, as amended, is amended by adding at the end thereof the following new section:

"SEC. 507. (a) Each officer or employee subject to this Act—

"(1) who holds, on or after the date of enactment of this section, under a career-conditional or career

appointment in the competitive civil service, a position (A) which is in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which is placed, on or after such date of enactment, while such officer or employee holds such position, in a lower grade of such schedule under any reclassification of such position pursuant to this Act;

"(2) who has held such position for a continuous period of not less than two years ending immediately prior to the date of such reclassification; and

"(3) whose performance of the work of such position at all times during such period is satisfactory or better than satisfactory;

shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification of his position (including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position) until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act.

"(b) Each officer or employee subject to this Act—

"(1) who, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of this section continuously held a position (A) which was in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which was placed, at any time during such period, in a lower grade of such schedule under one or more reclassifications of such position pursuant to this Act;

"(2) who holds such position on the date of enactment of this section;

"(3) who has held such position for a continuous period of not less than two years ending immediately prior to the date of enactment of this section; and

"(4) whose performance of the work of such position at all times during such period of two years specified in paragraph (3) of this subsection and also on the date of enactment of this section was satisfactory or better than satisfactory,

shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of this section (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassi-

fication of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclassifications), including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position, until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act. No officer or employee shall be entitled by reason of this subsection to basic compensation for any period prior to the first day of the first pay period which begins after the date of enactment of this section."

Passed the House of Representatives July 30, 1955.

Attest: RALPH R. ROBERTS,

Clerk.

84TH CONGRESS
1ST SESSION

H. R. 3255

AN ACT

To amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virture of reclassification actions under such Act, and for other purposes.

AUGUST 2, 1955

Read twice and referred to the Committee on Post Office and Civil Service

H. R. 3255

AN ACT

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued ay 23, 1956
For actions of May 22, 1956
84th-2nd, No. 84

CONTENTS

HIGHLIGHTS: Senate agreed to conference report on farm bill. House received conference report on farm bill. Senate passed USDA appropriation bill. Conferees were appointed. Senate debated Johnston retirement bill. Sen. Case commended accomplishments and progress of REA. House passed public works appropriation bill.

SENATE

1. FARM PROGRAM. Agreed to the conference report on H. R. 10875, the farm bill. p. 7803 Attached to this Digest is a summary of the bill as agreed to.

2. APPROPRIATIONS. Passed with amendments H. R. 11177, the USDA appropriation bill. pp. 7783, 7797

Agreed to the following amendments:

By Sen. Holland (joined by Sen. Smathers) to increase the appropriation for "Plant and Animal Disease and Pest Control," ARS, by $1,500,000 for the eradication of the Mediterranean fruit fly, of which $1,250,000 would be immediately available. p. 7797

By Sen Knowland, to increase the appropriation for ARS research by $60,000 for the development of mechanical prune pickers. p. 7801

By Sen. Humphrey (joined by Sen. Young), to increase the amount for electrification loans by $68,700,000 with elimination of the reserve authorization in the same amount, which would provide a total direct loan authorization of $214,000,000. This amendment also increases the telephone loan authorization by $50,500,000 with elimination of the reserve authorization of that amount, which would provide a total for direct telephone loans of $100,000,000. p. 7788

The following amendments were discussed and withdrawn:
By Sen. Aiken, to increase the appropriation for the Office of the Secretary by $10,500. p. 7801
By Sen. Thye, to provide an appropriation of $18,915,000 for construction of an animal disease laboratory at some location other than Beltsville, Md. p. 7786

The Appropriations Committee reported with amendments H. R. 10721, the State-Justice appropriation bill (S. Rept. 2034). p. 7769

The Appropriations Subcommittees ordered reported with amendments to the full Committee H. R. 10899, the Commerce appropriation bill, and H. R. 9739, the independent offices appropriation bill. p. D511

3. PERSONNEL. Continued debate on S. 2875, the Johnston retirement bill. pp. 7781, 7819

The Post Office and Civil Service Committee reported without amendment H. R. 3255, to preserve in certain cases the rates of pay of employees whose positions are reclassified to a lower grade (S. Rept. 2035). p. 7771

4. ELECTRIFICATION. Sen. Case commended the accomplishments and progress of REA, and the comforts it had brought to farm families. p. 7774

5. FOREIGN TRADE. Received from the Commerce Department a report on export control for the first quarter of 1956. p. 7771

Received from the Tariff Commission a proposed bill to provide additional time for the Tariff Commission to review the customs tariff schedules; to Finance Committee. p. 7771

6. FAIRS. Sen. Wiley inserted his statement on fairs and the part they have played in rural life. p. 7772

7. REPORTS. Sen. Smith, N. J., spoke of the Hoover Commission recommendation for agencies to "give increased emphasis in their reports program to the need to protect the public from unnecessary reporting burdens" and inserted a White House statement and a letter from the President to the Budget Bureau supporting this recommendation. p. 7774

8. PARITY PRICES. Sen. Kerr spoke on and inserted statements and figures to support his statement during the debate on the farm bill that farm products generally are being sold by farmers on an average of not to exceed 70% of parity; Sen. Capehart disputed these figures and inserted figures from this Department to support his position. p. 7790

9. SUGAR. Sen. Lehman inserted his statement contending that there were inequities in the conference report on H. R. 7030, particularly as it relates to Puerto Rico and the Philippines. p. 7781

HOUSE

10. FARM PROGRAM. Received the conference report on H. R. 10875, the farm bill (H. Rept. 2197). pp. 7825, 7827

11. APPROPRIATIONS. Passed with amendments H. R. 11319, the public works appropriation bill for 1957, including TVA, certain agencies of the Interior Department, and civil functions of the Army (p. 7827). Amendments adopted included an amendment by Rep. Abernethy to provide $160,000 for a resurvey of the Tenn.-Tombigbee Waterway by a vote of 179 to 170 (pp. 7860, 7878); an amendment by Rep. Boggs to provide $300,000 for planning of the Mississippi-Gulf outlet

Calendar No. 2058

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2035

AMENDING THE CLASSIFICATION ACT OF 1949

MAY 22 (legislative day, MAY 7), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 3255]

The Committee on Post Office and Civil Service to whom was referred the bill (H. R. 3255) to amend the Classification Act of 1949, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the bill is to preserve the basic compensation of certain officers and employees whose rates of pay are fixed under the Classification Act of 1949, as amended, whose positions have been or may be reduced to a lower grade by virtue of a reclassification action.

BACKGROUND

The Classification Act of 1949, as amended, authorizes the departments and agencies to allocate positions to appropriate grades in accordance with standards published by the Civil Service Commission. Such initial allocations are subject to review and confirmation by the Civil Service Commission. When the Commission dissents with the allocation of one or more positions it has the authority to order the allocation changed.

There have been instances where agency allocations have stood as initially established for several years and upon the second or third audit by the Commission were ordered reduced to a lower grade. In other instances, initial agency allocations were not audited for a period of several years. In still other instances, the agencies on their own volition reclassified positions to a lower grade. In any event, the downgrading of a position and resultant loss of pay to an employee who is but the victim of circumstances over which he has no

control and for which he is in nowise responsible is highly demoralizing and most inequitable.

The Civil Service Commission in its report of June 13, 1955, on H. R. 3255, as introduced, raised a number of questions regarding the wording of the bill and stated that it could correct the problem by administrative action.

Notwithstanding that assertion by the Commission, the House committee favorably reported the bill amended to meet the major objections raised by the Commission. Concurrently (July 23, 1955), the Commission issued regulations designed to accomplish the purposes of the bill. In spite of that action by the Commission the bill, as amended, was brought up and passed by the House on July 30, 1955.

On September 2, 1955, the Comptroller General questioned the action of the Civil Service Commission and asked for information setting forth the legal basis upon which the Commission regulations were promulgated. The Commission replied on October 7, 1955, and on October 31, 1955, the Comptroller General held that the regulations of the Commission were without legal foundation and, therefore, could not be sustained.

Accordingly, the need for legislation still exists.

SECTIONAL ANALYSIS

The bill adds a new section 507 to title V of the Classification Act of 1949, as amended.

Subsection (a) relates to an officer or employee who holds on or after the date of the enactment of section 507 a position in certain grades of any basic compensation schedule contained in the Classification Act of 1949, as amended, and which may be placed at some date in the future, in a lower grade as the result of a reclassification action.

Subsection (b) relates to an officer or employee who held continuously, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of section 507, a position which was in certain grades of any basic compensation schedule contained in the Classification Act of 1949, as amended, and which was placed, at any time during such period, in a lower grade as the result of a reclassification action.

It is pointed out—

(1) that neither subsection (a) or (b) apply to positions in supergrades 16, 17, and 18 of the general schedule;

(2) that subsection (a) applies only to officers and employees holding career-conditional and career appointments;

(3) that neither subsection (a) or (b) will operate to protect the salary of any officer or employee unless he is or was holding the position concerned at the time of the reclassification of such position to a lower grade;

(4) that subsection (a) and (b) require that the officer or employee shall have held the position for a continuous period of not less than 2 years;

(5) that an officer or employee shall have performed the duties of the position in a manner that was satisfactory or better;

(6) that an officer or employee whose rate of compensation is preserved by virtue of subsection (a) or (b) shall not be eligible

to receive any within-grade or longevity step increases until (1) he leaves the position from which such protection arises, or (2) he is entitled to basic compensation at a higher rate than his protected salary by reason of the operation of the Classification Act; and

(7) that no officer or employee shall be eligible to receive any retroactive compensation by reason of the enactment of section 507.

CHANGES IN EXISTING LAW

Compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate has been omitted inasmuch as it is necessary, in the opinion of the committee, to dispense with the requirements of such subsection to expedite the business of the Senate.

○

Calendar No. 2058

84TH CONGRESS
2D SESSION

H. R. 3255

[Report No. 2035]

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1955

Read twice and referred to the Committee on Post Office and Civil Service

MAY 22 (legislative day, MAY 7), 1956

Reported by Mr. JOHNSTON of South Carolina, without amendment

AN ACT

To amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Classification Act of 1949, as amended, is amended by adding at the end thereof the following new section:

"SEC. 507. (a) Each officer or employee subject to this Act—

"(1) who holds, on or after the date of enactment of this section, under a career-conditional or career

appointment in the competitive civil service, a position (A) which is in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which is placed, on or after such date of enactment, while such officer or employee holds such position, in a lower grade of such schedule under any reclassification of such position pursuant to this Act;

"(2) who has held such position for a continuous period of not less than two years ending immediately prior to the date of such reclassification; and

"(3) whose performance of the work of such position at all times during such period is satisfactory or better than satisfactory;

shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification of his position (including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position) until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act.

"(b) Each officer or employee subject to this Act—

"(1) who, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of this section continuously held a position (A) which was in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which was placed, at any time during such period, in a lower grade of such schedule under one or more reclassifications of such position pursuant to this Act;

"(2) who holds such position on the date of enactment of this section;

"(3) who has held such position for a continuous period of not less than two years ending immediately prior to the date of enactment of this section; and

"(4) whose performance of the work of such position at all times during such period of two years specified in paragraph (3) of this subsection and also on the date of enactment of this section was satisfactory or better than satisfactory,

shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of this section (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassi-

fication of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclassifications), including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position, until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act. No officer or employee shall be entitled by reason of this subsection to basic compensation for any period prior to the first day of the first pay period which begins after the date of enactment of this section."

Passed the House of Representatives July 30, 1955.

Attest: RALPH R. ROBERTS,

Clerk.

H. R. 3585

AN ACT

Calendar No. 2058

84TH CONGRESS
2D SESSION

H. R. 3255

[Report No. 2035]

AN ACT

To amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act, and for other purposes.

AUGUST 2, 1955

Read twice and referred to the Committee on Post Office and Civil Service

MAY 22 (legislative day, MAY 7), 1956

Reported without amendment

H. R. 3255

AN ACT

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 5, 1956
For actions of June 4, 1956
84th-2nd, No. 91

CONTENTS

HIGHLIGHTS: See page 7.

SENATE

1. APPROPRIATIONS. The Appropriations Committee reported with amendments H. R. 9720, the Labor-HEW appropriation bill for 1957 (S. Rept. 2093); and H. R. 10003, the D. C. appropriation bill for 1957 (S. Rept. 2094). p. 8457

   Made the Labor-HEW appropriation bill its unfinished business for consideration today. p. 8498

2. FORESTRY. Passed without amendment H. R. 9822, to require the Interior Department to establish a trout hatchery in the Pisgah National Forest, N. C. Sen. Flanders discussed, but did not submit, an amendment to this bill to provide for the reconstruction and equipment of the fish hatchery in the Green Mountain National Forest, and stated that he would introduce a bill for this purpose. This bill is now ready for the President. p. 8497

3. PERSONNEL. Passed without amendment H. R. 3255, to preserve the basic compensation of classified employees whose positions are reclassified to a lower grade. This bill is now ready for the President. p. 8498

4. EXPORT CONTROL. The Banking and Currency Committee ordered reported with amendment H. R. 9052, to extend the Export Control Act of 1949 for 2 years. p. D558

5. DEFENSE PRODUCTION. The Banking and Currency Committee ordered reported with amendments S. 3407, to extend the Defense Production Act of 1950. p. D558

6. PUBLIC LANDS. An Interior and Insular Affairs subcommittee ordered reported with amendments to the full committee H. R. 4096, to provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements. p. D558

7. FARM LOANS. An Interior and Insular Affairs subcommittee ordered reported without amendment to the full committee H. R. 8385, to transfer to the Secretary of Agriculture the responsibilities relating to Puerto Rican hurricane relief loans. p. D558

8. SCHOOL MILK. Sen. Aiken inserted a statement of congressional intent in extending benefits of the special school milk program to certain child-care institutions and summer camps, which stated t at it was the "prevailing desire of the committee to direct extension of the milk program to summer camps and to settlement houses, orphanages, and other similar institutions which were serving economically underprivileged children." p. 8479

9. PUBLIC POWER. Sen. Neuberger inserted a newspaper editorial opposing the development of Niagara Falls hydrcelectric project. p. 8487

10. MONOPOLIES. Sen. Butler inserted his statement reviewing and commending the Administration's antitrust enforcement record. p. 8499

11. LEGISLATIVE PROGRAM. Majority Leader Johnson announced that the Labor-HEW and D. C. appropriation bills would be taken up today, and that the social security bill would be considered later this week. p. 8458

HOUSE

12. APPROPRIATIONS. Agreed to the conference report on H. R. 9390, the Interior Department appropriation bill for 1957 (including Forest Service items). p. 8503

Conferees were appointed on H. R. 10899, the Commerce Department appropriation bill for 1957. p. 8503 Senate conferees were appointed on May 31.

13. FARM LOANS. The Agriculture Committee reported with amendment H. R. 11544, to improve and simplify the credit facilities available to farmers and to amend the Bankhead-Jones Farm Tenant Act (H. Rept. 2260) (pp. 8511, 8517). Regarding this bill, the Committee issued the following statement on June 1:

"The Committee on Agriculture today unanimously ordered reported a bill by Chairman Cooley (H.R. 11544) which will make important changes in the direct loan programs of the Department of Agriculture administered by the Farmers Home Administration.

"The bill was drafted by the Conservation and Credit Subcommittee after extended consideration of more than a score of bills dealing with various aspects of the Farmers Home Administration loan programs. As reported by the committee, the bill will provide additional funds for emergency loan programs, authorize refinancing of existing farm debts, provide assistance to part-time farmers, and complement the Great Plains Program and the special program for low-income farmers.

the two Houses on the amendments of the Senate to the bill (H. R. 9390) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1957, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 8, 10, 16, 27, 28, and 35 to the bill, and concurred therein, and that the House receded from its disagreement to the amendment of the Senate numbered 18 to the bill, and agreed to the same with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10899) making appropriations for the Department of Commerce and related agencies for the fiscal year ending June 30, 1957, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PRESTON, Mr. THOMAS, Mr. ROONEY, Mr. YATES, Mr. SHELLEY, Mr. FLOOD, Mr. CANNON, Mr. CLEVENGER, Mr. BOW, Mr. HORAN, Mr. MILLER of Maryland, and Mr. TABER were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message further announced that the Speaker pro tempore had affixed his signature to the following enrolled bills, they they were signed by the President pro tempore:

H. R. 1671. An act for the relief of Clement E. Sprouse;

H. R. 1913. An act for the relief of Mrs. Anna Elizabeth Doherty;

H. R. 2216. An act to amend the act of June 19, 1948 (ch. 511, 62 Stat. 489), relating to the retention in the service of disabled commissioned officers and warrant officers of the Army and Air Force;

H. R. 3996. An act to further amend the Military Personnel Claims Act of 1945;

H. R. 4229. An act to provide running mates for certain staff corps officers in the naval service, and for other purposes;

H. R. 4437. An act relating to withholding for State employee retirement system purposes, on the compensation of certain civilian employees of the National Guard and the Air National Guard;

H. R. 4569. An act to provide for renewal of and adjustment of compensation under contracts for carrying mail on water routes;

H. R. 4704. An act to provide for the examination preliminary to promotion of officers of the naval service;

H. R. 5268. An act to amend section 303 of the Career Compensation Act of 1949 to authorize the payment of mileage allowances for overland travel by private conveyance outside the continental limits of the United States;

H. R. 7679. An act to provide for the conveyance of certain lands by the United States to the city of Muskogee, Okla.;

H. R. 8477. An act to amend title II of the Women's Armed Services Integration Act of 1948, by providing flexibility in the distribution of women officers in the grades of commander and lieutenant commander, and for other purposes;

H. R. 8490. An act authorizing the Aministrator of General Services to convey certain property of the United States to the city of Bonham, Tex.;

H. R. 8674. An act to provide for the return of certain property to the city of Biloxi, Miss.;

H. R. 9358. An act to require the Administrator of Veterans' Affairs to issue a deed to the city of Cheyenne, Wyo., for certain land heretofore conveyed to such city, removing the conditions and reservations made a part of such prior conveyance; and

H. R. 10251. An act to authorize the Administrator of Veterans' Affairs to deed certain land to the city of Grand Junction, Colo.

ORDER FOR RECESS TO TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its business today it stand in recess until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITION OF CERTAIN LANDS TO THE PIPESTONE NATIONAL MONUMENT, MINN.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 2060, House bill 8225.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 8225) to authorize the addition of certain lands to the Pipestone National Monument in the State of Minnesota.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. JOHNSON].

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, H. R. 8225, if enacted, would authorize the Secretary of the Interior to add to the Pipestone National Monument, Minn., not more than 250 acres of adjacent Federal land, as the Secretary deems necessary to protect archeological remains, and to acquire not more than 10 acres of non-Federal land as he considers necessary to improve the boundary of the monument.

No appropriation of Federal funds is authorized by this legislation.

The Pipestone National Monument, created by the act of August 25, 1937 (50 Stat. 804), covers an area of 115.86 acres. The Federal land which would be added by H. R. 8225 contains important remains of the Red Pipestone quarry which served as a source of stone of unique properties from which many tribes of North American Indians fashioned their pipes. This land is part of the Pipestone school reserve, consisting of a tract of 532 acres of land, which has been abandoned and is surplus to the needs of the Bureau of Indian Affairs. The committee notes that the city of Pipestone, Minn., is interested in acquiring that portion of the tract that is not added to the monument. Therefore, it is the intent of the Federal agencies to dispose of such lands in accordance with surplus-property procedures.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

TROUT HATCHERY ON THE DAVIDSON RIVER, N. C.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 2061, H. R. 9822.

The PRESIDING OFFICER (Mr. SPARKMAN in the chair). The bill will be stated by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 9822) to provide for the establishment of a trout hatchery on the Davidson River in Pisgah National Forest in North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. FLANDERS. Mr. President, I should like to offer an amendment to the bill. I am very glad, indeed, that the people of North Carolina are about to have a new fish hatchery established in Pisgah National Forest. In my State the fish hatchery which serves the Green Mountain National Forest is in need of reconstruction, equipment, and so forth, over a period of years. The appropriation for this year was $32,000.

It seems to me that equal consideration should be given to the needs of the Green Mountain National Forest as compared with the Pisgah National Forest. Therefore, I offer an amendment to that effect.

The PRESIDING OFFICER. The secretary will state the amendment.

Mr. JOHNSON of Texas. May I inquire whether the Senator from Vermont has submitted his amendment to the committee?

Mr. FLANDERS. No; I heard of this matter for the first time today. Year after year hundreds of thousands of dollars are spent on brandnew fish hatcheries, while at the same time a paltry $25,000 or $30,000 a year is appropriated for the fish hatchery in the Green Mountain National Forest, which is a program that has already been adopted by the Fish and Wildlife Service.

Mr. JOHNSON of Texas. I do not wish to disagree with the Senator from Vermont that Vermont has not been equitably treated, because I am not informed on that point. However, I believe that the amendment the Senator has in mind should follow the orderly procedure by being submitted first to the committee. If the Senator from Vermont insists on offering his amendment at this time, the majority leader is not in a position to accept it, because the author of the pending bill, the Senator from North Carolina [Mr. ERVIN], is not on the floor, and the chairman of the committee has not held hearings on the

Senator's amendment. If the Senator insists on his amendment, the majority leader will request that the Senate proceed to the consideration of some other bill.

Mr. FLANDERS. I should like to say to the Senator from Texas that I had assumed right along that the regular appropriation bill carried appropriations for the building and improvement of Federal fish hatcheries in the national forests and in other places. Nevertheless, from time to time bills providing special appropriations are introduced and considered. I feel it to be my duty to my constituents that I try to get the same treatment for Vermont.

Mr. JOHNSON of Texas. Mr. President, I believe the Senator should try to do so; but he should follow the course pursued by the Senator from North Carolina, in having his bill referred to the appropriate committee and asking that the committee give it consideration and then having the committee report the bill to the Senate. If the Senator from Vermont were to follow that procedure, the Senator from Texas would be very glad to join him in urging the committee to give consideration to his bill.

The Senator from Texas does not wish to defeat the bill of the Senator from North Carolina by injecting into its consideration a matter which has not had consideration by the committee. If the Senator from Vermont insists on offering his amendment, the majority leader will ask the Senate to proceed to the consideration of another measure.

The Senator from Texas would like to see the Senator from Vermont introduce his bill in the regular order; and the Senator from Texas will join him in asking the committee to give him a hearing on the bill. The Senator from Texas has no doubt that the committee will consider the needs of the State of Vermont as presented to it by the Senator from Vermont, who so ably represents it, in part.

Mr. FLANDERS. Mr. President, there are two comments which I should like to make on what the Senator from Texas has said. The first is that I have not the slightest animus toward the people of North Carolina; in fact, I have feelings of deep friendliness toward them and toward its representatives in the Senate. I do not wish to do anything which would in any way jeopardize what they have in mind and what they are asking for. That is one-half of the problem.

The second half of the problem is the question—and this is parliamentary—whether such a bill can be introduced in the Senate. Must not such a bill be introduced in the House?

Mr. JOHNSON of Texas. Oh no; the Senator may introduce such a bill in the Senate. It is purely an authorization bill.

Mr. FLANDERS. It is purely an authorization bill?

Mr. JOHNSON of Texas. That is correct. The distinguished Senator from North Carolina [Mr. ERVIN] is a member of the committee that would consider such a bill. If the Senator from Vermont introduces such a bill, the Senator from Texas will ask the committee to give it consideration and to make a report on it to the Senate during this session of Congress.

Mr. FLANDERS. Mr. President, in view of my friendship toward the people of North Carolina and the Senators who represent that State in the Senate, and because of the very wise observations of the Senator from Texas, instead of trying to amend the pending bill, I shall submit my amendment to the Senate in the form of a separate bill.

Mr. JOHNSON of Texas. I appreciate the Senator's cooperation, and I assure him of mine.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill (H. R. 9822) was ordered to a third reading, read the third time, and passed.

AMENDMENT OF CLASSIFICATION ACT OF 1949

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 2058, H. R. 3255.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 3255) to amend the Classification Act of 1949 to preserve the rates of compensation of certain officers and employees.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the purpose of the bill is to preserve the basic compensation of certain officers and employees whose rates of pay are fixed under the Classification Act of 1949, as amended, whose positions have been or may be reduced to a lower grade by virtue of a reclassification action.

The Classification Act of 1949, as amended, authorizes the departments and agencies to allocate positions to appropriate grades in accordance with standards published by the Civil Service Commission. Such initial allocations are subject to review and confirmation by the Civil Service Commission. When the Commission dissents with the allocation of one or more positions it has the authority to order the allocation changed.

There has been instances where agency allocations have stood as initially established for several years and upon the second or third audit by the Commission were ordered reduced to a lower grade. In other instances, initial agency allocations were not audited for a period of several years. In still other instances, the agencies on their own volition reclassified positions to a lower grade. In any event, the downgrading of a position and resulant loss of pay to an employee who is but the victim of circumstances over which he has no control and for which he is in nowise responsible is highly demoralizing and most inequitable.

The Civil Service Commission in its report of June 13, 1955, on H. R. 3255, as introduced, raised a number of questions regarding the wording of the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. JOHNSTON of South Carolina subsequently said:

Mr. President, I have a statement in connection with Calendar No. 2058, House bill 3255, to amend the Classification Act of 1949 to preserve the rates of compensation of certain officers and employees, which explains the bill, and I should like to have it printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JOHNSTON OF SOUTH CAROLINA

H. R. 3255 amends title V of the Classification Act of 1949, as amended, by adding at the end thereof subsection 507 which is designed to preserve the basic compensation of employees whose positions have been downgraded since July 1, 1954, or may be downgraded in the future by virtue of a reclassification action.

The fixing of pay rates for positions subject to the Classification Act of 1949, as amended, is done by the agencies on the basis of standards promulgated by the Civil Service Commission. The Civil Service Commission has the responsibility for making post audits of the rates established by the agencies which frequently result in a downgrading of the positions. It is not uncommon for the downgrading to occur 4 or 5 or more years after the rate of pay was established by the agency. The result is that the individuals filling the downgraded positions become the unfortunate victims of factors beyond their control. The resultant loss of pay to employees who may have made long-range financial commitments based on a rate of pay they had every reason to believe would continue in effect is of serious consequence.

Extensive hearings were held on the bill in the House July 11 and 26, 1955, during which there was general agreement by the Civil Service Commission and employee organizations as to the need for corrective action. As a matter of fact, the Commission attempted to fulfill the objectives of H. R. 3255 by administrative regulation but the Comptroller General ruled on October 31, 1955, that it was without legal authority to do so. Accordingly, there is need for legislation as embodied in H. R. 3255.

It is to be noted:

First, that the bill does not apply to the supergrade positions.

Second, that the bill applies only to career employees.

Third, that an employee must have held the position being downgraded for a period of at least 2 years and performed the duties of the position in a satisfactory manner.

Fourth, that the bill will give no employee retroactive pay.

Fifth, that employee whose rate of pay is preserved will receive no further increases until protection of his salary is no longer required.

These are all good provisions and will serve to make the bill workable and equitable for both the Government and its employees.

APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR; HEALTH, EDUCATION, AND WELFARE; AND RELATED AGENCIES, 1957

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to

Public Law 594 - 84th Congress
Chapter 402 - 2d Session
H. R. 3255

AN ACT

To amend the Classification Act of 1949 to preserve in certain cases the rates of basic compensation of officers and employees whose positions are placed in lower grades by virtue of reclassification actions under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Classification Act of 1949, as amended, is amended by adding at the end thereof the following new section:

Federal employees. Preservation of basic compensation. 63 Stat. 958. 5 USC 1101-1106.

"SEC. 507. (a) Each officer or employee subject to this Act—

"(1) who holds, on or after the date of enactment of this section, under a career-conditional or career appointment in the competitive civil service, a position (A) which is in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which is placed, on or after such date of enactment, while such officer or employee holds such position, in a lower grade of such schedule under any reclassification of such position pursuant to this Act;

"(2) who has held such position for a continuous period of not less than two years ending immediately prior to the date of such reclassification; and

"(3) whose performance of the work of such position at all times during such period is satisfactory or better than satisfactory;

shall continue to receive basic compensation at the rate to which he was entitled immediately prior to such reclassification of his position (including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position) until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act.

"(b) Each officer or employee subject to this Act—

"(1) who, during the period beginning on July 1, 1954, and ending immediately prior to the date of enactment of this section continuously held a position (A) which was in any grade of a basic compensation schedule of this Act (other than grade 16, 17, or 18 of the General Schedule) and (B) which was placed, at any time during such period, in a lower grade of such schedule under one or more reclassifications of such position pursuant to this Act;

"(2) who holds such position on the date of enactment of this section; 70 Stat. 291.

"(3) who has held such position for a continuous period of not less than two years ending immediately prior to the date of enactment of this section; and 70 Stat. 292.

"(4) whose performance of the work of such position at all times during such period of two years specified in paragraph (3) of this subsection and also on the date of enactment of this section was satisfactory or better than satisfactory,

shall be granted, effective as of the first day of the first pay period which begins after the date of enactment of this section (if he continues to hold such position on such first day of such first pay period), the rate of basic compensation to which he was entitled immediately prior to such reclassification of his position (or, in the case of more than one reclassification of such position, the date of the first of any such reclas- Effective date.

sifications), including any increases in such rate of basic compensation provided by law at any time while such officer or employee is in such position, until (i) he leaves such position or (ii) he is entitled to receive basic compensation at a higher rate by reason of the operation of this Act; but, whenever such position becomes vacant, the rate of basic compensation of any individual subsequently appointed to such position shall be fixed in accordance with this Act. No officer or employee shall be entitled by reason of this subsection to basic compensation for any period prior to the first day of the first pay period which begins after the date of enactment of this section."

Restriction.

Approved June 18, 1956.

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